

1804.677-6 Instructions for completing  
NASA Form 1651, Contractor Performance  
Summary Report—CPS.

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(n) \* \* \*

(2) Each applicable evaluation area will be evaluated as Excellent, Very Good, Good, Satisfactory, or Poor/Unsatisfactory. The following definitions are provided as guidance in determining the appropriate rating:

**Excellent:** Of exceptional merit; exemplary performance in a timely, efficient, and economical manner; very minor (if any) deficiencies with no adverse effect on overall performance (Point Range: 91-100).

**Very Good:** Very effective performance, fully responsive to contract requirements accomplished in a timely, efficient, and economical manner for the most part. Only minor deficiencies (Point Range: 81-90).

**Good:** Effective performance; fully responsive to contract requirements; reportable deficiencies, but with little identifiable effect on overall performance (Point Range: 71-80).

**Satisfactory:** Meets or slightly exceeds minimum acceptable standards; adequate results. Reportable deficiencies with identifiable, but not substantial, effects on overall performance (Point Range: 61-70).

**Poor/Unsatisfactory:** Does not meet minimum acceptable standards in one or more areas; remedial action required in one or more areas; deficiencies in one or more areas which adversely affect overall performance (Point Range: 0-60).

"N/A" will be indicated for any area clearly not evaluated by the PEB.

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(4) If any area is rated "Satisfactory" or below, the contracting officer will provide a brief explanation of each such rating in Item 16.

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(q) Item 16, Contracting Officer Comments. The contracting officer will briefly discuss the causes and rationale for any ratings of "Satisfactory" or below.

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Part 171

[Docket No. HM-215; Amdt. No. 171-117]

#### International Maritime Dangerous Goods Code and ICAO Technical Instructions; Matter Incorporated by Reference

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This interim final rule updates a reference in the Hazardous Materials Regulations to the International Maritime Dangerous Goods Code (IMDG Code) to include the most recent amendment to the Code. This rule also implements the most recent edition of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These amendments are necessary to facilitate the continued transport of hazardous materials in international commerce by vessel and aircraft when these two international regulations become effective.

**DATES:** January 1, 1993.

The incorporation by reference of certain publications listed in this final rule is approved by the Director of the Office of the Federal Register as of January 1, 1993.

**ADDRESSES:** Address comments to the Dockets Unit (DHM-30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001.

Comments should identify the docket and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Dockets Unit is located in room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC. Public dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m. Monday through Friday, except for legal Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Beth Romo, telephone (202) 366-4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

**SUPPLEMENTARY INFORMATION:** The Research and Special Programs Administration (RSPA) is revising the regulations in 49 CFR 171.7 to recognize Amendment 28 to the IMDG Code, which has recently been published by the International Maritime Organization (IMO). This amendment promulgates numerous miscellaneous changes to the IMDG Code and addresses such matters as classification, labeling, packaging, and documentation. IMO has established January 1, 1993, as the implementation date for these amendments. In § 171.12, the Hazardous Materials Regulations (HMR) authorize shipments prepared in accordance with the IMDG Code if all or part of the transportation is by vessel, subject to certain conditions and limitations.

This rule also incorporates by reference the 1993-1994 edition of the ICAO Technical Instructions, which becomes effective on January 1, 1993, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 to the Convention on International Civil Aviation. The offering, acceptance and transportation of hazardous materials by aircraft, and by motor vehicle either before or after being transported by aircraft, is authorized in § 171.11 as fully equivalent to the HMR (with certain exceptions) if in conformance with the ICAO Technical Instructions. RSPA is considering certain other amendments to part 175 to improve consistency between 49 CFR and the ICAO Technical Instructions under a separate rulemaking action, Docket HM-184.

This rule is intended to facilitate the international transportation of hazardous materials by aircraft and vessel by ensuring a basic consistency between the HMR and the international regulations. Because this rule provides for the continued use of international standards without adversely affecting safety or imposing additional requirements on persons subject to the HMR, notice and public procedure are considered unnecessary. For these same reasons, these amendments are being made effective without the customary 30-day delay following publication. This will allow use of these two international regulations when they become effective on January 1, 1993. Because this final rule is published without prior notice, RSPA is requesting comments by February 15, 1993. If warranted, a future notice will be published in the *Federal Register* addressing substantive comments.

**Rulemaking Analyses and Notices****A. Executive Order 12291**

This interim final rule does not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule and is not a significant rule under the regulatory procedures of the Department of Transportation (44 U.S.C. 11034). This interim final rule does not require a Regulatory Impact Analysis, or an environmental assessment or impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). It also imposes no additional requirements on any person; therefore, a regulatory evaluation was not prepared.

**B. Executive Order 12612**

This interim final rule has been analyzed in accordance with Executive Order 12612. This final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

The Hazardous Materials Transportation Act contains an express preemption provision (49 App. U.S.C. 1804(a)(4)) that preempts State and local requirements on certain covered subjects (including the designation, description, and classification of

hazardous materials) unless the State or local requirement is substantively the same in the Federal requirement on that subject. Thus, RSPA lacks discretion in this area.

**C. Impact on Small Entities**

Based on limited information concerning size and nature of entities likely to be affected by this rule, I certify this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 49 CFR Part 171**

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 171 is amended as follows:

**PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS**

1. The authority citation for part 171 continues to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808, 1815, 1818; 49 CFR part 1.

**§ 171.7 [Amended]**

2. In § 171.7, in the table in paragraph (a)(3), the following changes are made:

a. The entry "International Maritime Dangerous Goods (IMDG) Code, 1990 Consolidated Edition" is amended by adding the wording ", as amended by Amendment 26 thereto" immediately after the word "Edition".

b. For the entry "Technical Instructions for the Safe Transport of Dangerous Goods" under ICAO, the date "1991-1992" is revised to read "1993-1994".

Issued in Washington, DC on December 15, 1992 under authority delegated in 49 CFR part 1.

Douglas B. Ham, -

Acting Administrator, Research and Special Programs Administration.

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