permit the inclusion of ''formerly'' limited English proficient students in the limited English proficient (LEP) subgroup for the purpose of determining adequate yearly progress. The commenters feared that counting only ''current'' limited English proficient students would result in permanent identification for improvement of any school serving sufficient numbers of such students.

Discussion: The Secretary recognizes the concern raised by the commenter not to penalize schools and LEAs that succeed in developing the English proficiency of limited English proficient students. However, these provisions are statutory and may not be changed by the Secretary. Also, the definition of ''limited English proficient'' in section 9101 (25) of the ESEA includes three alternative definitions and may give States some flexibility to address this concern. The Secretary may further address this issue in Title I guidance.

Changes: None.

* * * * *

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Dated: January 3, 2003.

Susan B. Neuman,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 03–351 Filed 1–7–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK88

Health Care for Certain Children of Vietnam Veterans—Covered Birth Defects and Spina Bifida

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the regulations regarding health care for Vietnam veterans' children suffering from spina bifida to also encompass health care for women Vietnam veterans' children with certain other birth defects. This is necessary to provide health care for such children in accordance with recently enacted legislation. The amendments also reduce the requirements for preauthorization, reflect changes in organizational and personnel titles, revise contact information for the VHA Health Administration Center, and make nonsubstantive changes for purposes of clarity.

DATES: *Effective Date:* January 8, 2003.

Applicability Dates: This rule is applicable retroactively to December 1, 2001, for benefits added by Public Law 106–419. For more information concerning the dates of applicability, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Susan Schmetzer, Chief, Policy & Compliance Division, Health Administration Center, Department of Veterans Affairs, PO Box 65020, Denver, CO 80206, telephone (303) 331–7552.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on January 2, 2002 (67 FR 209), we proposed to amend VA health care regulations to provide benefits for women Vietnam veterans' children with covered birth defects, reduce the requirements for preauthorization, reflect changes in organizational and personnel titles, revise contact information for the VHA Health Administration Center, and make nonsubstantive changes for purposes of clarity. Prior to the enactment of Public Law 106–419 on November 1, 2000, the provisions of 38 U.S.C. chapter 18 only concerned benefits for children with spina bifida who were born to Vietnam veterans. Effective December 1, 2001, section 401 of Public Law 106–419 amended 38 U.S.C. chapter 18 to add benefits for women Vietnam veterans' children with certain birth defects (referred to as ''covered birth defects'').

Two companion proposed rule documents concerning the provision of benefits under that legislation were also set forth in the January 2, 2002, issue of the **Federal Register**. One concerned monetary allowances and the identification of covered birth defects (RIN: 2900–AK67) (67 FR 200). The other concerned the provision of vocational training benefits (RIN: 2900-AK90) (67 FR 215). With respect to the first document, we published a final rule entitled ''Monetary Allowances for Certain Children of Vietnam Veterans; Identification of Covered Birth Defects'' in the July 31, 2002, issue of the **Federal Register** (67 FR 49585).

For the proposed rule on health care, we provided, except for the information collection provisions, a thirty-day period for public comments, which ended on February 1, 2002. Pursuant to the Paperwork Reduction Act, we provided for the information collections in the document a 60-day comment period, which ended on March 4, 2002. We received comments from one organization and two individuals. None of the comments concerned the information collections.

One commenter, an individual, felt that the U.S. government is displaying a bias in favor of women veterans in this regulation and that the hidden effect of Agent Orange may also have remained dormant in men's systems and produced chromosomal disorders in their children. No changes are made based on this comment. Public Law 106–419, which was based on a comprehensive health study conducted by VA of 8,280 women Vietnam-era veterans, provides benefits specifically for women Vietnam veterans' children with certain birth defects. We have no legal authority to award the new health care benefits to children of male Vietnam veterans.

Another individual commented about payment of transportation expenses for medical care and treatment, and suggested two changes to the regulations. First, he suggested a change that he said would clarify § 17.902(a), which in the first sentence requires preauthorization for certain travel and other benefits. In our view, his suggested change would not be merely a clarification but rather would be a substantive change to the benefits paid for travel of beneficiaries and any necessary attendants. The proposed rule contained the same language concerning travel as in the current regulations in 38 CFR part 17 for health care for Vietnam veterans' children with spina bifida. We believe that a substantive change to travel benefits is beyond the scope of this rulemaking.

Second, this commenter suggested that § 17.903, concerning payment, be amended to contain specific provisions about travel benefits. The commenter's suggested language would, in part, unnecessarily restate statutory provisions that are already reflected in the language in proposed § 17.900, which defines ''health care'' as including ''direct transportation costs to and from approved health care providers (including any necessary costs for meals and lodging en route, and accompaniment by an attendant or attendants).'' Also, his suggested language would add substantive

provisions on travel. As discussed above, a substantive change to travel benefits is beyond the scope of this rulemaking.

A comment was received from the Spina Bifida Association of America requesting that the regulations be changed to reflect VA as a primary payer rather than the exclusive payer for covered services. The commenter asserted that as an unintended consequence of the ''exclusive payer'' language (in the current 38 CFR 17.900 and in the proposed rule in § 17.901), health care providers are sometimes unwilling to provide care covered by the regulations because coordination of benefits with other health insurers (and resulting additional payments to the providers for their services) is not allowed. Because the requested change is significant and substantive in nature, it is beyond the scope of this rulemaking. However, the Department is considering the need for such a change.

Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule without change except that we are making nonsubstantive changes for purposes of clarity and we are adding a statement following each of the sections in the rule with information collection requirements to reflect the approval by the Office of Management and Budget (OMB) of the information collection requirements contained in those sections.

Administrative Procedure Act

This rule provides for new benefits and otherwise merely removes restrictions on benefits and makes nonsubstantive changes. To avoid delay in furnishing the new benefits, we find that there is good cause to make this final rule effective without a 30-day delay of its effective date. Accordingly, under 5 U.S.C. 553, there is no need for delay in this rule's effective date.

Applicability Dates

This rule is applicable retroactively to the statutory effective date of December 1, 2001, for benefits added by section 401 of Public Law 106–419. This rule is otherwise applicable on the rule's effective date, January 8, 2003, for the already existing program of health care furnished for Vietnam veterans' children determined under 38 CFR 3.814 to suffer from spina bifida.

Paperwork Reduction Act

Information collection requirements associated with this final rule (in 38 CFR 17.902 through 17.904) have been approved by OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521) and have been assigned OMB control number 2900–0578. The information collection requirements of § 17.902 concern requests for preauthorization for certain health care services or benefits. The information collection requirements of § 17.903 concern the submission of claims from approved health care providers for health care provided under §§ 17.900 through 17.905. The information collection requirements of § 17.904 concern the review and appeal process regarding provision of health care, or payment relating to provision of health care, under §§ 17.900 through 17.905.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of the rule will not have a significant impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. It is estimated that there are only a total of 1200 Vietnam veterans' children who suffer from spina bifida and women Vietnam veterans' children who suffer from covered birth defects. They are widely geographically diverse and the health care provided to them would not have a significant impact on any small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this document is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule will have no consequential effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance program numbers for the programs affected by this document.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and record keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: September 25, 2002.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 17 is amended as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501(a), 1721, unless otherwise noted.

2. In part 17, the undesignated center heading immediately preceding § 17.900 and §§ 17.900 through 17.905 are revised to read as follows:

Health Care Benefits for Certain Children of Vietnam Veterans—Spina Bifida and Covered Birth Defects

§ 17.900 Definitions.

For purposes of §§ 17.900 through 17.905—

Approved health care provider means a health care provider currently approved by the Center for Medicare and Medicaid Services (CMS), Department of Defense TRICARE Program, Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), Joint Commission on Accreditation of Health Care Organizations (JCAHO), or currently approved for providing health care under a license or certificate issued by a governmental entity with jurisdiction. An entity or individual will be deemed to be an approved health care provider only when acting within the scope of the approval, license, or certificate.

Child for purposes of spina bifida means the same as *individual* as defined at § 3.814(c)(2) or § 3.815(c)(2) of this title and for purposes of covered birth defects means the same as *individual* as defined at § 3.815(c)(2) of this title.

Covered birth defect means the same as defined at § 3.815(c)(3) of this title and also includes complications or

medical conditions that are associated with the covered birth defect(s) according to the scientific literature.

Habilitative and rehabilitative care means such professional, counseling, and guidance services and such treatment programs (other than vocational training under 38 U.S.C. 1804 or 1814) as are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of a disabled person.

Health care means home care, hospital care, nursing home care, outpatient care, preventive care, habilitative and rehabilitative care, case management, and respite care; and includes the training of appropriate members of a child's family or household in the care of the child; and the provision of such pharmaceuticals, supplies (including continence-related supplies such as catheters, pads, and diapers), equipment (including durable medical equipment), devices, appliances, assistive technology, direct transportation costs to and from approved health care providers (including any necessary costs for meals and lodging en route, and accompaniment by an attendant or attendants), and other materials as the Secretary determines necessary.

Health care provider means any entity or individual that furnishes health care, including specialized clinics, health care plans, insurers, organizations, and institutions.

Home care means medical care, habilitative and rehabilitative care, preventive health services, and health-related services furnished to a child in the child's home or other place of residence.

Hospital care means care and treatment furnished to a child who has been admitted to a hospital as a patient.

Nursing home care means care and treatment furnished to a child who has been admitted to a nursing home as a resident.

Outpatient care means care and treatment, including preventive health services, furnished to a child other than hospital care or nursing home care.

Preventive care means care and treatment furnished to prevent disability or illness, including periodic examinations, immunizations, patient health education, and such other services as the Secretary determines necessary to provide effective and economical preventive health care.

Respite care means care furnished by an approved health care provider on an intermittent basis for a limited period to an individual who resides primarily in a private residence when such care will help the individual continue residing in such private residence.

Spina bifida means all forms and manifestations of spina bifida except spina bifida occulta (this includes complications or medical conditions that are associated with spina bifida according to the scientific literature).

Vietnam veteran for purposes of spina bifida means the same as defined at § 3.814(c)(1) or § 3.815(c)(1) of this title and for purposes of covered birth defects means the same as defined at § 3.815(c)(1) of this title.

(Authority: 38 U.S.C. 101(2), 1802–1803, 1811–1813, 1821)

§ 17.901 Provision of health care.

(a) *Spina bifida.* VA will provide a Vietnam veteran's child who has been determined under § 3.814 or § 3.815 of this title to suffer from spina bifida with such health care as the Secretary determines is needed by the child for spina bifida. VA may inform spina bifida patients, parents, or guardians that health care may be available at not-for-profit charitable entities.

(b) *Covered birth defects.* VA will provide a woman Vietnam veteran's child who has been determined under § 3.815 of this title to suffer from spina bifida or other covered birth defects with such health care as the Secretary determines is needed by the child for the covered birth defects. However, if VA has determined for a particular covered birth defect that § 3.815(a)(2) of this title applies (concerning affirmative evidence of cause other than the mother's service during the Vietnam era), no benefits or assistance will be provided under this section with respect to that particular birth defect.

(c) *Providers of care.* Health care provided under this section will be provided directly by VA, by contract with an approved health care provider, or by other arrangement with an approved health care provider.

(d) *Submission of information.* For purposes of §§ 17.900 through 17.905:

(1) The telephone number of the Health Administration Center is (888) 820–1756;

(2) The facsimile number of the Health Administration Center is (303) 331–7807;

(3) The hand-delivery address of the Health Administration Center is 300 S. Jackson Street, Denver, CO 80209; and

(4) The mailing address of the Health Administration Center—

(i) For spina bifida is P.O. Box 65025, Denver, CO 80206–9025; and

(ii) For covered birth defects is P.O. Box 469027, Denver, CO 80246–0027.

(Authority: 38 U.S.C. 101(2), 1802–1803, 1811–1813, 1821)

Note to § 17.901: This is not intended to be a comprehensive insurance plan and does not cover health care unrelated to spina bifida or unrelated to covered birth defects. VA is the exclusive payer for services paid under §§ 17.900 through 17.905 regardless of any third party insurer, Medicare, Medicaid, health plan, or any other plan or program providing health care coverage. Any third-party insurer, Medicare, Medicaid, health plan, or any other plan or program providing health care coverage would be responsible according to its provisions for payment for health care not relating to spina bifida or covered birth defects.

§ 17.902 Preauthorization.

(a) Preauthorization from a benefits advisor of the Health Administration Center is required for the following services or benefits under §§ 17.900 through 17.905: rental or purchase of durable medical equipment with a total rental or purchase price in excess of $300, respectively; transplantation services; mental health services; training; substance abuse treatment; dental services; and travel (other than mileage at the General Services Administration rate for privately owned automobiles). Authorization will only be given in those cases where there is a demonstrated medical need related to the spina bifida or covered birth defects. Requests for provision of health care requiring preauthorization shall be made to the Health Administration Center and may be made by telephone, facsimile, mail, or hand delivery. The application must contain the following:

(1) Name of child,

(2) Child's Social Security number,

(3) Name of veteran,

(4) Veteran's Social Security number,

(5) Type of service requested,

(6) Medical justification,

(7) Estimated cost, and

(8) Name, address, and telephone number of provider.

(b) Notwithstanding the provisions of paragraph (a) of this section, preauthorization is not required for a condition for which failure to receive immediate treatment poses a serious threat to life or health. Such emergency care should be reported by telephone to the Health Administration Center within 72 hours of the emergency.

(Authority: 38 U.S.C. 101(2), 1802–1803, 1811–1813, 1821)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0578.)

§ 17.903 Payment.

(a)(1) Payment for services or benefits under §§ 17.900 through 17.905 will be determined utilizing the same payment methodologies as provided for under the

Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) (see § 17.270).

(2) As a condition of payment, the services must have occurred:

(i) For spina bifida, on or after October 1, 1997, and must have occurred on or after the date the child was determined eligible for benefits under § 3.814 of this title.

(ii) For covered birth defects, on or after December 1, 2001, and must have occurred on or after the date the child was determined eligible for benefits under § 3.815 of this title.

(3) Claims from approved health care providers must be filed with the Health Administration Center in writing (facsimile, mail, hand delivery, or electronically) no later than:

(i) One year after the date of service; or

(ii) In the case of inpatient care, one year after the date of discharge; or

(iii) In the case of retroactive approval for health care, 180 days following beneficiary notification of eligibility.

(4) Claims for health care provided under the provisions of §§ 17.900 through 17.905 must contain, as appropriate, the information set forth in paragraphs (a)(4)(i) through (a)(4)(v) of this section.

(i) Patient identification information:

(A) Full name,

(B) Address,

(C) Date of birth, and

(D) Social Security number.

(ii) Provider identification information (inpatient and outpatient services):

(A) Full name and address (such as hospital or physician),

(B) Remittance address,

(C) Address where services were rendered,

(D) Individual provider's professional status (M.D., Ph.D., R.N., etc.), and

(E) Provider tax identification number (TIN) or Social Security number.

(iii) Patient treatment information (long-term care or institutional services):

(A) Dates of service (specific and inclusive),

(B) Summary level itemization (by revenue code),

(C) Dates of service for all absences from a hospital or other approved institution during a period for which inpatient benefits are being claimed,

(D) Principal diagnosis established, after study, to be chiefly responsible for causing the patient's hospitalization,

(E) All secondary diagnoses,

(F) All procedures performed,

(G) Discharge status of the patient, and

(H) Institution's Medicare provider number.

(iv) Patient treatment information for all other health care providers and ancillary outpatient services such as durable medical equipment, medical requisites, and independent laboratories:

(A) Diagnosis,

(B) Procedure code for each procedure, service, or supply for each date of service, and

(C) Individual billed charge for each procedure, service, or supply for each date of service.

(v) Prescription drugs and medicines and pharmacy supplies:

(A) Name and address of pharmacy where drug was dispensed,

(B) Name of drug,

(C) National Drug Code (NDC) for drug provided,

(D) Strength,

(E) Quantity,

(F) Date dispensed,

(G) Pharmacy receipt for each drug dispensed (including billed charge), and

(H) Diagnosis for which each drug is prescribed.

(b) Health care payment will be provided in accordance with the provisions of §§ 17.900 through 17.905. However, the following are specifically excluded from payment:

(1) Care as part of a grant study or research program,

(2) Care considered experimental or investigational,

(3) Drugs not approved by the U.S. Food and Drug Administration for commercial marketing,

(4) Services, procedures, or supplies for which the beneficiary has no legal obligation to pay, such as services obtained at a health fair,

(5) Services provided outside the scope of the provider's license or certification, and

(6) Services rendered by providers suspended or sanctioned by a Federal agency.

(c) Payments made in accordance with the provisions of §§ 17.900 through 17.905 shall constitute payment in full. Accordingly, the health care provider or agent for the health care provider may not impose any additional charge for any services for which payment is made by VA.

(d) *Explanation of benefits (EOB).*—(1) When a claim under the provisions of §§ 17.900 through 17.905 is adjudicated, an EOB will be sent to the beneficiary or guardian and the provider. The EOB provides, at a minimum, the following information:

(i) Name and address of recipient,

(ii) Description of services and/or supplies provided,

(iii) Dates of services or supplies provided,

(iv) Amount billed,

(v) Determined allowable amount,

(vi) To whom payment, if any, was made, and

(vii) Reasons for denial (if applicable).

(2) [Reserved]

(Authority: 38 U.S.C. 101(2), 1802–1803, 1811–1813, 1821)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0578.)

§ 17.904 Review and appeal process.

For purposes of §§ 17.900 through 17.905, if a health care provider, child, or representative disagrees with a determination concerning provision of health care or with a determination concerning payment, the person or entity may request reconsideration. Such request must be submitted in writing (by facsimile, mail, or hand delivery) within one year of the date of the initial determination to the Health Administration Center (Attention: Chief, Benefit and Provider Services). The request must state why it is believed that the decision is in error and must include any new and relevant information not previously considered. Any request for reconsideration that does not identify the reason for dispute will be returned to the sender without further consideration. After reviewing the matter, including any relevant supporting documentation, a benefits advisor will issue a written determination (with a statement of findings and reasons) to the person or entity seeking reconsideration that affirms, reverses, or modifies the previous decision. If the person or entity seeking reconsideration is still dissatisfied, within 90 days of the date of the decision he or she may submit in writing (by facsimile, mail, or hand delivery) to the Health Administration Center (Attention: Director) a request for review by the Director, Health Administration Center. The Director will review the claim and any relevant supporting documentation and issue a decision in writing (with a statement of findings and reasons) that affirms, reverses, or modifies the previous decision. An appeal under this section would be considered as filed at the time it was delivered to the VA or at the time it was released for submission to the VA (for example, this could be evidenced by the postmark, if mailed).

Note to § 17.904: The final decision of the Director will inform the claimant of further appellate rights for an appeal to the Board of Veterans' Appeals.

(Authority: 38 U.S.C. 101(2), 1802–1803, 1811–1813, 1821)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0578.)

§ 17.905 Medical records.

Copies of medical records generated outside VA that relate to activities for which VA is asked to provide payment or that VA determines are necessary to adjudicate claims under §§ 17.900 through 17.905 must be provided to VA at no cost.

(Authority: 38 U.S.C. 101(2), 1802–1803, 1811–1813, 1821)

[FR Doc. 03–101 Filed 1–7–03; 8:45 am]
BILLING CODE 8320–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

[RSPA Docket No. 02–13658 (HM–215E)]

RIN 2137–AD41

Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions; Incorporation by Reference

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

ACTION: Final rule.

SUMMARY: This final rule amends the Hazardous Materials Regulations (HMR) by updating incorporation by reference materials to include the most recent amendments 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). This action is necessary to facilitate the continued transport of hazardous materials in international commerce by aircraft and vessel after these international standards become effective. The other changes proposed in the notice of proposed rulemaking (NPRM) under this docket will be addressed in a separate rule.

DATES: *Effective date:* The effective date of these amendments is January 8, 2003.

Voluntary compliance date: Compliance with the regulations, as amended herein, is authorized as of January 1, 2003.

Incorporation by reference. The incorporation by reference of certain publications listed in these amendments has been approved by the Director of the Federal Register as of January 8, 2003.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, Office of Hazardous Materials Standards, telephone (202) 366–8553, or Shane Kelley, International Standards, telephone (202) 366–0656, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2002, RSPA published a notice of proposed rulemaking (NPRM) under Docket Number RSPA–2002–13658 (HM–215E), 67 FR 72034, that proposed changes to more fully align the HMR with international standards. Proposed changes were to update the incorporations by reference of three international standards and to solicit comments by January 2, 2003. The standards are Amendment 31 to the IMDG Code, the 2003–2004 edition of the ICAO Technical Instructions, and the twelfth revised edition of the UN Recommendations. We received no comments opposing the incorporation of these updated standards. We are issuing this final rule adopting only the incorporation by reference materials to allow their use beginning January 1, 2003, the effective date of the international standards. Our intent is to prevent disruption for persons transporting hazardous materials in international commerce.

Discussion of Standards and Amendments

Amendment 31 to the IMDG Code, which was recently published by the International Maritime Organization (IMO), contains miscellaneous changes to the IMDG Code concerning classification, labeling, packaging, and documentation. The IMO has established January 1, 2003, as the implementation date for these amendments and is authorizing a one-year transition period, until January 1, 2004, for compliance with the new requirement. Amendments 30 and 31 are authorized for use until January 1, 2004, at which time all shipments must conform to Amendment 31. With certain exceptions, we authorize in § 171.12 of the HMR, shipments prepared in accordance with the IMDG Code if all or part of the transportation is by vessel. At least 150 countries, with combined merchant fleets accounting for more than 98% of the world's gross tonnage, use the IMDG Code as a basis for regulating vessel transport of hazardous materials.

The 2003–2004 edition of the ICAO Technical Instructions is effective January 1, 2003. The revised edition incorporates numerous miscellaneous changes concerning classification, labeling, packaging and documentation. In § 171.11 of the HMR, we authorize the offering, accepting and transporting of hazardous materials by air when prepared in conformance with the ICAO Technical Instructions and by motor vehicle both before and after air transportation, with certain exceptions. Virtually all shipments of hazardous materials transported internationally by aircraft are transported in accordance with the ICAO Technical Instructions, as well as the majority of the domestic shipments. The ICAO Technical Instructions are updated every two years.

The twelfth revised edition of the UN Recommendations is also effective January 1, 2003. The UN Recommendations are not regulations but 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 the IMDG Code and the ICAO Technical Instructions.

Uniform national and international hazardous materials transportation regulations enhance transportation safety and facilitate trade of hazardous materials. International carriers engaged in the transportation of hazardous materials by air generally elect to comply with the ICAO Technical Instructions, while vessel operators generally elect to comply with the IMDG Code. In so doing, these carriers are able to train their hazmat employees in a single set of hazardous materials transportation requirements, thereby minimizing the possibility of improperly transporting a shipment of hazardous materials because of differences in domestic regulations. Authorizing the use of the updated editions of international standards will facilitate the international transportation of hazardous materials by aircraft and vessel by ensuring a basic consistency between the HMR and the international regulations.

Based on the above discussion, we are revising § 171.7, to incorporate by reference Amendment 31 to the IMDG Code, the 2003–2004 edition of the ICAO Technical Instructions, and the twelfth revised edition of the UN Recommendations.