

and is not evidence of any failure of NRC's regulatory program.

*Response:* EPA is not revisiting its decision to promulgate subpart T in regard to either of these points. As to the first point, in claiming that no sites can come into compliance with subpart T, the commenter fails to mention two NRC-licensed piles, Edgemont and Ray Point, have already come into compliance. In addition, many piles designated as Title I piles have achieved closure under the DOE program.

As to the second point relating to decades of radon emission, EPA reaffirms its observation that in fact some currently nonoperational disposal sites have emitted radon for decades. The commenter's statement that virtually all sites were conducting operations until the early or mid-1980s acknowledges that "some" were not. Furthermore many of the DOE Title I piles have emitted radon for decades.

It is worth noting, however, that whether the currently nonoperational sites were operational during some or most of that period is not of consequence to the health risk identified by EPA in promulgating Subpart T, which is not being revisited here. This point is emphasized by EPA's promulgation of Subpart W at the same time it promulgated subpart T. Subpart W regulates operational disposal sites to ensure that their emissions also will not exceed 20 pCi/m<sup>2</sup>-s; this stay does not affect Subpart W.

*Comment:* The discussion of the MOU in the preamble to the proposed stay may create confusion. By referring to "final closure" it suggests total site closure (e.g., groundwater restoration), when in fact radon control is all that is addressed by the MOU.

*Response:* EPA agrees that the MOU is directed only to compliance with the 20 pCi/m<sup>2</sup>-s flux standard.

*Comment:* EPA should take steps to amend the MOU in certain respects.

*Response:* EPA believes the MOU is sufficient as executed and does not currently intend any revisions. The concerns underlying the changes requested, however, are being addressed to the extent appropriate in the rulemaking proposing to rescind subpart T.

#### List of subjects in 40 CFR Part 61

Air pollution control, Hazardous materials, Asbestos, Beryllium, Mercury, Vinyl Chloride, Benzene, Arsenic, and Radionuclides.

Dated: December 19, 1991.

William K. Reilly,  
Administrator.

For all of the reasons given in the preamble, part 61 of title 40 of the Code of Federal Regulations is amended to read as follows:

#### PART 61 [AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401.7412, 7414, 7416, 7601.

2. Section 61.220 of subpart T of part 61 is amended by designating the current text as paragraph (a) and by adding paragraph (b) to read as follows:

#### § 61.220 Designation of facilities.

\* \* \* \* \*

(b) The effective date for subpart T is stayed for owners and operators of all sites that are used for the disposal of tailings, commonly referred to as uranium mills and their associated tailings, that are regulated under Title II of the Uranium Mill Tailings Control Act of 1978, until the date on which EPA takes final action concerning its proposal to rescind subpart T for owners and operators of all sites that are used for the disposal of tailings that are regulated under title II of the Uranium Mill Tailings Control Act of 1978, pursuant to section 112(d)(9) of the Clean Air Act, as amended, as published on (date of this publication), or June 30, 1994, whichever first occurs. EPA will publish any such final action in the Federal Register.

[FR Doc. 91-30833 Filed 12-30-91; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

#### Research and Special Programs Administration

#### 49 CFR Part 173

[Docket No. HM-198A; Amdt. No. 173-227]

RIN 2137-AB31

#### Elevated Temperature Materials

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

**ACTION:** Final rule; delay of compliance dates.

**SUMMARY:** RSPA is delaying the compliance dates for certain provisions of a final rule concerning elevated temperature materials and clarifying the effective date of this final rule in conjunction with the final rule published December 21, 1990, under Docket HM-

181. This action is in response to numerous petitions asking RSPA to delay the compliance dates contained in the rule to allow affected entities sufficient time to come into compliance with the new requirements and to provide RSPA additional time to review petitions for reconsideration received in response to the final rule. RSPA will respond to other petitions for reconsideration in a separate document.

**DATES:** *Effective date:* These amendments are effective March 30, 1992. However, compliance with the regulations as amended herein is authorized as of October 30, 1991.

#### FOR FURTHER INFORMATION CONTACT:

Beth Romo, Office of Hazardous Materials Standards, (202) 366-4488, or James K. O'Steen, Office of Hazardous Materials Technology, (202) 366-4545, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

On October 2, 1991, RSPA published a final rule (Docket HM-198A; 56 FR 49980) amending the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) to regulate materials which pose a hazard due to their being offered for transportation or transported at elevated temperatures. The final rule established requirements to communicate the hazards of these elevated temperature materials by means of marking, shipping papers and placarding, and to prescribe packaging requirements for these materials. Based on the petitions received, RSPA finds it impracticable to take action and respond to certain substantive issues discussed in the petitions within the 90-day period prescribed by 49 CFR 106.37(b). In addition, RSPA has received requests from six petitioners, representing cargo tank manufacturers and shippers, to delay the effective date of the final rule. The petitioners stated that additional time is needed for newly-regulated entities to come into compliance with the new requirements. Delaying certain compliance dates allows RSPA an opportunity to more thoroughly study issues raised in the petitions for reconsideration and to prepare an appropriate response.

#### Clarification of Effective Date

This final rule is effective March 30, 1992. However, under the transition provisions of the Docket HM-181 final rule, as revised on December 20, 1991 (56 FR 66124), in § 171.14 (b)(3) and (b)(4), classification and hazard communication requirements may be delayed until October 1, 1993, except for

placarding requirements which may be delayed until October 1, 1994.

#### Summary of Compliance Dates

*October 30, 1991:* Compliance with the regulations is authorized.

*October 1, 1993:* Authorized packagings in service prior to October 1, 1993, and not in full compliance with § 173.247(b), may continue to be used for up to 20 years from their date of manufacture. All packagings manufactured after this date must be in compliance with the packaging standards contained in § 173.247(b).

*March 30, 1995:* All authorized packagings must conform to closure requirements contained in § 173.247(b)(2). Packagings used for transportation of asphalt or bitumen also must be in conformance with § 173.247 (b)(5) and (b)(6).

#### Administrative Notices

##### A. Executive Order 12291

This final rule has been reviewed under the criteria specified in § 1(b) of Executive Order 12291 and (1) is determined not to be a major rule; (2) is determined not to be a significant rule under the regulatory procedures of the Department of Transportation (44 FR 11034); and (3) does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act (42 U.S.C., 4321 *et seq.*) This final rule does not impose additional requirements and has the net result of reducing costs imposed under the final rule published in the Federal Register on October 2, 1991, without reducing safety (56 FR 49980). The original regulatory evaluation of the final rule was not modified because this final rule does not impose additional requirements and

does not make substantive changes to the final rule. That document is available for review in the docket.

##### B. Executive Order 12612

This action has been analyzed in accordance with Executive Order 12612 ("Federalism"). It has no substantial direct effect on the States, on the current Federal-State relationship, or the current distribution of power and responsibilities among levels of government. Thus this final rule contains no policies that have Federalism implications, as defined in Executive Order 12612, and no Federalism Assessment is required.

##### C. Impact on Small Entities

Based on available information, I certify that the changes in this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A regulatory flexibility analysis prepared for the October 2, 1991 final rule is available for review in the docket.

##### D. Paperwork Reduction Act

This amendment imposes no changes to the information collection and recordkeeping requirements contained in the October 2, 1991 final rule, which was approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 under OMB control number 2137-0034 (expiration date: June 30, 1992).

##### E. Regulatory Information Number (RIN)

A regulatory information 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 number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

In consideration of the foregoing, 49 CFR part 173, as amended in the final rule published October 2, 1991 (56 FR 49989), is further amended as follows:

#### PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, 1808, 1817; 49 CFR part 1, unless otherwise noted.

##### § 173.247 [Amended]

2. In § 173.247, as added on page 49989, the following changes are made:

a. In paragraph (c)(5), the date "March 30, 1993" is revised to read "October 1, 1993".

b. In paragraph (d)(2), the date "March 30, 1993" is revised to read "March 30, 1995".

c. In paragraphs (d)(3) and (d)(4), the date "March 30, 1993" is revised to read "October 1, 1993" both places it appears.

Issued in Washington, DC on December 24, 1991, under authority delegated in 49 CFR part 1.

Douglas B. Ham,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 91-31184 Filed 12-30-91; 8:45 am]

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