74:26 is given with the understanding that the State will revise as necessary its regulations to comply with Federal requirements after the decision in the *NRDC* v. *Thomas* remand is made. Today's action approves revisions to the existing NSR program.

EPA finds good cause exists for making the action taken in this notice immediately effective because the implementation plan revisions are already in effect under State law or regulation. EPA's approval poses no additional regulatory burden.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 1, 1988. This action may not be challenged later in proceedings to enforce its requirements. (see 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Sulfur oxides, Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the State of South Dakota was approved by the Director of the Federal Register on July 1, 1982.

Date: August 18, 1988.

Lee M. Thomas,

Administrator.

Part 52 Chapter I, Title 40 of the *Code of Federal Regulations* is amended as follows:

PART 52—[AMENDED]

Subpart QQ—South Dakota

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2170 is amended by adding paragraph (c)(11) to read as follows:

§ 52.2170 Identification of plan.

* * * * *

(c) * * *

(11) On January 28, 1988, the Governor submitted a plan revision (1) updating citations to Federal regulations in the South Dakota air pollution control regulations (Administrative Rules of South Dakota 74:26), (2) adopting new ambient air quality standards for particulates (PM_{10}), (3) revising the State administrative procedures for handling permit hearings and contested cases, and (4) correcting deficiencies in the stack height regulations.

(i) Incorporation by reference

(A) Revisions to the Administrative Rules of South Dakota (ARSD) 74:26:01:12, ARSD 74:26:01:35, ARSD 74:26:01:37, ARSD 74:26:01:64, ARSD 74:26:08 through ARSD 74:26:23, inclusive, and addition of a new section, ARSD 74:26:02:35, were revised through November 24, 1987.

3. Add a new § 52.2180.

§ 52.2180 Stack height regulations.

The State of South Dakota has committed to revise its stack height regulations should EPA complete rulemaking to respond to the decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (DC Cir. 1988). In a letter to Douglas M. Skie, EPA, dated May 11, 1988, Joel C. Smith, Administrator, Office of Air Quality and Solid Waste, stated:

"* * * We are submitting this letter to allow EPA to continue to process our current SIP submittal with the understanding that if EPA's response to the NRDC remand modifies the July 8, 1985 regulations, EPA will notify the State of the rules that must be changed to comport with the EPA's modified requirements. The State of South Dakota agrees to make the appropriate changes."

[FR Doc. 88–19165 Filed 9–1–88; 8:45 am]

BILLING CODE 6560–50–M

[FRL 3436–7]

40 CFR Parts 260, 264, 265, and 270

Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is today providing an interpretation of certain terms and provisions, and correcting typographical and other errors, that originally appeared in the revised final standards for hazardous waste tank systems (51 FR 25422, July 14, 1986). These interpretations and amendments are being made in response to litigation and numerous inquiries that the Agency has received on certain aspects of the final rule.

EFFECTIVE DATE: September 2, 1988.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline, (800) 424-9346 (in Washington, DC, call (202) 382–3000)), or William J. Kline, (202) 382–7917, Office of Solid Waste (OS–322), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

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I. Background

On July 14, 1986, EPA issued a final rule that revised the standards for hazardous waste storage and treatment tank systems (51 FR 25422). Since then, the Agency has received requests for interpretation of a number of terms or provisions of the final rule, and has found several typographical errors in the rule. In addition, the revised tank system standards were challenged by industry petitioners in *Edison Electric Institute (EEI). et al.* v. *U.S. EPA*, No. 86–1549 (D.C. Circuit). This notice provides additional interpretation and clarification of the final rule, both in response to public inquiry and in settlement of the *EEI* litigation. This notice also corrects a number of typographical errors.

II. Discussion of Issues Requiring Interpretation

Three major areas of the final rule require further clarification: (1) The exemptions for wastewater treatment systems and elementary neutralization tank systems, (2) issues concerning secondary containment requirements, and (3) the applicability of the immediate response exemption under 40 CFR 265.1(c)(11) and 270.1(c)(3).

A. Scope of the Exemptions for Wastewater Treatment/Elementary Neutralization Tank Systems

1. Effect of Revised Tank System Standards on Wastewater Treatment/ Elementary Neutralization Units

On November 17, 1980, EPA promulgated an amendment to the hazardous waste standards that suspended applicability of the requirements in 40 CFR Parts 122 (now codified in Part 270), 264, and 265 to owners and operators of wastewater treatment tanks and elementary neutralization tanks (45 FR 76074).

In the July 14, 1986, revised standards for hazardous waste tank systems (51 FR 25422), the Agency, in response to evidence indicating a high incidence of failures in piping and other equipment ancillary to tanks, made a special effort to focus on the proper management of such equipment. Thus, all equipment that is ancillary to the tank and used "to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal on-site, or to a point of shipment for disposal off-site" was made subject to the revised standards (see definition of "ancillary equipment", 40 CFR 260.10). EPA used the term "tank system" to emphasize that both the tank and its ancillary equipment must be managed in accordance with the revised standards. EPA has received several inquiries regarding the extent to which the term "tank system" might result in previously exempt wastewater treatment/neutralization tanks being regulated by the revised hazardous waste tank system standards.

In the July 14, 1986, rulemaking, the Agency had no intention of altering the scope of the November 17, 1980, exemption for such units as provided under 40 CFR 264.1(g)(6), 265.1(c)(10), and 270.1(c)(2)(v) by subjecting the ancillary equipment of such exempt tanks to regulation. EPA attempted to make this point clear in the preamble of the revised standards (see 51 FR 25462). However, numerous parties believe the preamble language is still ambiguous. This ambiguity was also an issue in the *EEI* litigation. To add to the confusion of the status of these exemptions, EPA inadvertently neglected to amend the 40 CFR 260.10 definitions of "elementary neutralization unit" and "wastewater treatment unit" to reflect the Agency's intent to address hazardous waste tank systems, rather than simply hazardous waste tanks. In this notice, EPA corrects this oversight.

In order to remove any remaining ambiguity over this issue, EPA is today amending the wastewater treatment and elementary neutralization unit definitions to clarify that the exemptions apply to the tank systems, not just the tank. The only additional equipment intended to be covered under the revised standards was ancillary equipment that is associated with a regulated hazardous waste storage or treatment tank.

Thus, if a wastewater treatment or elementary neutralization unit is not subject to the RCRA Subtitle C hazardous waste management standards, the ancillary equipment connected to the exempted unit is likewise not subject to the Subtitle C standards. Similarly, the exemptions apply to sumps that meet the definition of a tank in 40 CFR 260.10 and that are used for the purpose of conveying hazardous wastewater to an exempted wastewater treatment or elementary neutralization unit (including conveyance by way of intermediate sumps, tanks, and holding ponds) since such sumps are ancillary equipment to the exempted tanks. Also, the revised hazardous waste tank system standards do not apply to ancillary equipment that is associated with hazardous waste management units other than storage or treatment tanks (*e.g.*, surface impoundments).

2. Clarification of "Wastewater Treatment Unit"

One of the conditions under 40 CFR 260.10 for qualifying as a wastewater treatment unit is that the unit must be part of a wastewater treatment facility that is subject to regulation under either section 402 or section 307(b) of the Clean Water Act. EPA has received numerous inquiries regarding the meaning of the term "wastewater treatment facility."

Based on EPA's property-boundary interpretation of the term "facility" under RCRA and the purpose of the exemption, which is to exclude tank systems subject to regulation under the Clean Water Act, it is EPA's position that in order for a wastewater treatment unit to be covered by the exemption, it must be part of an on-site wastewater treatment facility. Accordingly, any hazardous waste tank system that is used to store or treat the wastewater that is managed at an on-site wastewater treatment facility with an National Pollution Discharge Elimination System (NPDES) permit or that discharges to a Publicly Owned Treatment Works (POTW), is exempt from the RCRA regulations. Whether the wastewater is conveyed from the tank system directly to the treatment unit or indirectly by way of intermediate sumps, tanks or holding ponds does not affect the applicability of the exemption. For example, this exemption would apply if a sump is used to collect the rinse from periodic cleaning of utility boilers and this wastewater is then conveyed to a wastewater treatment unit at the same facility. Also, the means of conveyance of the waste between storage and treatment does not affect the applicability of this exemption. The applicability of the exemption does not depend on whether the wastewater is piped or trucked, or conveyed in any other manner to the wastewater treatment facility within the boundaries of the facility generating the wastewater. Likewise, the applicability of the exemption does not depend on whether the on-site wastewater treatment facility also treats wastewater generated off-site.

However, any tank system that was employed in managing wastewater at a facility prior to its off-site transfer to another location, whether or not the off-site location includes an NPDES permitted wastewater treatment facility, or a facility that discharges to a POTW sewer system, is not covered by this exemption.

EPA intends that this exemption apply to any tank system that manages hazardous wastewater and is dedicated for use with an on-site wastewater treatment facility. However, if a tank system, in addition to being used in conjunction with an on-site wastewater treatment facility, is used on a routine or occasional basis to store or treat a hazardous wastewater prior to shipment off-site for treatment, storage, or disposal, it is not covered by this exemption. Unless the tank system otherwise qualifies for some other exemption, it would be subject to the revised standards for hazardous waste tank systems.

A final clarification of this exemption concerns an on-site wastewater treatment facility that has no discharge to surface water. As previously stated in 45 FR 76078 (November 17, 1980), the wastewater treatment unit exemption is intended to cover only tank systems that are part of a wastewater treatment facility that (1) produces a treated wastewater effluent which is discharged into surface waters or into a POTW sewer system and therefore is subject to the NPDES or pretreatment requirements of the Clean Water Act, or (2) produces no treated wastewater effluent as a direct result of such requirements. This exemption is not intended to apply to wastewater

treatment units that are not required to obtain an NPDES permit because they do not discharge treated effluent.

B. Issues Regarding Secondary Containment Requirements

The Agency has also received numerous requests for interpretation of the regulatory provisions concerning the secondary containment requirements. The areas of confusion include; the meaning of welded flanges, the exemption for certain types of joints and connections, the exemption of above-ground sealless valves, the extent of required leak detection for concrete liners, and the secondary containment of pressurized piping with automatic shut-off devices.

1. Welded Flanges

The primary purpose of a flange is to enable connection of piping to vessels, pumps, valves, and other equipment. A flange connection provides an easy means of removing equipment from the pipe system for inspection, maintenance, repair, or replacement. Like other piping connections, flanges can be joined to piping by two basic techniques: threaded joints or metallurgical bonds (e.g., welds). If a piece of equipment is connected to piping by a threaded joint, it may be difficult to remove the equipment without disassembly of a portion of the piping system or without loosening other pipe-threaded connections. If the equipment is welded to the pipe, the pipe must be cut to remove the equipment. In contrast, equipment joined together with flanged connections can be easily removed by unbolting the flanges.

In §§ 264.193(f) and 265.193(f) of the revised hazardous waste tank system standards, EPA exempted welded flanges from the requirement to have secondary containment as long as the flanges were visually inspected on a daily basis. Numerous questions have been raised as to the intended meaning of the term "welded flange" because EPA did not define this term in the July 14, 1986, final rules. Apparently, several different meanings can be attributed to the term.

A term typically used in national piping codes, "welded flange" refers to welding only the piping to the flange. The flange-to-flange seal is achieved by mechanical seals, such as gaskets and o-rings. The flanges are usually held together by bolts. For a perfect seal, the bolt holes would have to be eliminated, and a circumferential weld made at the flange-to-flange joint. However, EPA is not aware of any national standards or codes that discuss this type of weld. And, most important, such a weld would defeat the purpose of the flange—i.e., to allow easy coupling and uncoupling of equipment from the piping system.

In exempting welded flanges from secondary containment, EPA intended to discourage the use of threaded joints, which EPA believes are susceptible to more frequent and larger quantities of releases than welded flanges. Threaded joints are used in metals where the walls are thick enough to withstand considerable pressure and corrosion after reduction in thickness due to threading. Threading is not a precise machining operation, and filler materials such as "pipe dope" are necessary to block the spiral leakage path.

Several characteristics of threaded joints make them more susceptible to leakage than welded flanges. Threads notch the pipe and reduce its strength and fatigue resistance. Enlargement and contraction of the flow passage at threaded joints creates turbulence. Thus, corrosion and erosion may be aggravated at the point where a pipe has already been thinned by threading. The tendency of pipe wrenches to crush pipes and fittings limits the torque available for tightening threaded joints thereby possibly excluding the necessary amount of tightening. For low-pressure systems, a slight rotation in the joint may be used to impart flexibility to the system, but this same rotation may cause leaks to develop in higher-pressure systems. In some metals, galling (i.e., a wearing down) occurs when threaded joints are disassembled.

Flanged joints come in a wide variety of types and facings. Welded-neck flanges provide joints as strong as the pipe under all types of static and cyclic loading. Slip-on, socket-weld, and lap-joint flanges provide joints as strong as the pipe under static loading but have lower resistance to cyclic stresses.

EPA realizes that flanged connections cannot be considered equivalent to an all-welded pipe system without flanges and will, therefore, pose a potential leak source. However, welded flanges eliminate, in EPA's opinion, the point of most probable leakage—i.e., the threaded pipe connection to the flange. With respect to potential leakage, flanges are superior to threaded connections because of the higher quality and more consistent workmanship and supervision associated with flange assembly and because of the inherent problems with threaded joints discussed above. While the flange-to-flange seals can leak, the occurrence of leakage from flanges is much lower than from threaded joints due to the larger seal surface area for the flange joint (a large surface on flange face versus a few sealing threads in the threaded connection). Also, with proper selection of bolt materials and washers, the mechanical seal can be kept under continuous compressive force, whereas the threaded joint relies on thread sealing compound to compensate for the contraction and expansion of the threaded joint. In any case, if a leak does occur in the mechanical seal it can be easily detected visually and corrected immediately.

Weld-neck and lap-joint flanges are preferable to socket-weld and slip-on flanges because they provide the greatest resistance to static stress. Socket-weld and slip-on flanges provide a lesser degree of structural integrity because the welds may eventually weaken, particularly from cyclical stress (vibration, hammering, opening/closing of valves, etc.). Nevertheless, EPA believes that any of these welded flanges, if properly specified, installed, inspected, and maintained in accordance with American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM), and other piping component standards, and if properly managed in compliance with the revised hazardous waste tank system standards (e.g., compatibility, design certification, installation certification, inspections, and response to leak/spills), should pose a very low risk of leakage. For example, a properly designed piping system should take cyclical loading into account and use pulsation dampers, flex joints, expansion joints, etc., to eliminate or substantially minimize the effect of cyclical stresses. Thus, as specified on the revised tank system rules, the Agency believes secondary containment is not necessary for aboveground welded flanges (i.e., welded at the joint of the pipe to the flange) that are visually inspected on a daily basis. For the purpose of §§ 264.193(f) and 265.193(f) EPA interprets the term "Welded flange" to mean weld-neck, lap-joint, slip-on, and socket-weld flanges.

2. Applicability of Exemption for Certain Types of Joints and Connections

Since promulgation of the revised tank system standards, EPA has received numerous inquiries regarding the intended scope of the exemption from secondary containment for welded joints and welded connections. For example, inquirers have requested clarification on the applicability of this exemption to plastic piping connections, and compression, soldered/brazed and other tubing connections.

A wide diversity of joints/connections can be used in the construction of a hazardous waste tank system. Considering the broad spectrum of reliability that can be expected of the joint/ connection, given such variables as material of construction, method of joining, quality control of joint/ connection assembly, etc., the issue is which types of joints/connections are sufficiently "welded" so as to be exempt from the requirement of secondary containment.

In general, and as previously discussed, one of EPA's main concerns lies with threaded fittings and joints. As explained below, fittings and joints that avoid the inherent problems associated with threaded fittings and joints, and that thereby provide a more reliable connection, are the types of fittings and joints most likely to be considered "welded" (that is to say, permanently joined in such a fashion as to be comparable to welding in reliability) and thus eligible for exemption from the secondary containment requirement. This exemption is only applicable to aboveground piping systems that are visually inspected on a daily basis.

a. *Plastic piping connections.* Plastic pipe and fittings may be joined by a solvent-cement, by heat fusion, or by a mechanical device such as threads or a ring seal. A brief description of each type of joint is given below:

- Solvent cement softens the surfaces of the components, which then solidify as the solvent evaporates.
- With heat fusion, the surfaces are heated with special tools until they have softened. When engaged, the softened surfaces flow together, forming a joint as the material cools. There are three basic types of heat-fused joints: butt fused, socket or insert fused, and saddle fused.
- Mechanical means or devices can be used to develop a pressure seal. Types of mechanical joints include threaded joint, compression gasket joint, compression fitting joint, clamped insert-fitting joint, bell-and-spigot gasket or push-on joint, flanged joint, and flare joint.

Of all the joining techniques, solvent-cementing and heat fusion can be considered equivalent to welding in metal pipe systems. In both cases, the plastic is melted or "welded" together. The choice of the particular bonding depends on the type of plastic. Polyvinylchloride (PVC) and chlorinated polyvinylchloride (CVPC) pipes are solvent cemented, but polyvinylidene fluoride (PVDF) and polypropylene (PP) pipes require heat fusion, since they are not susceptible to solvent cementing. As with all joining techniques, the leak characteristics depend on the quality of workmanship involved. If the plastic components are properly joined, the risk of leakage should be the same as that of welded pipe.

According to ASTM standards, the pressure rating of solvent-cemented joints, properly fabricated, is equivalent to the pressure rating for the original pipe, after a reasonable time has been allowed for the joint to cure. The pressure rating of well-made, heat-fused joints is the same as the pressure rating for the original pipe after the material in the joint has cooled to the pipe temperature.

However, EPA notes that care must be taken in the selection and application of a particular plastic pipe. The pipe must be suitable for the internal fluid and the external conditions. For example, some pipes may need to be wrapped to prevent stress cracking from ultraviolet light.

Flared-tube joints, insert fittings, and threaded joints are not as reliable as heat fusion and solvent-cement joining techniques and have a greater incidence of leaks than do the welded pipes. Of these, threaded joints have the greatest likelihood of leaking, insert fittings the next greatest, and flared-tube joints the least likelihood of the three.

Depending on the type of material and/or the manufacturer, certain joining devices may lower the maximum pressure rating of the piping system. Typically, threaded and mechanical joints of particular plastics may lower the maximum pressure rating (of the pipe joined) by as much as 50 percent.

Given this information, EPA is convinced that solvent-cemented and heat-fused connections in plastic piping systems are analogous to welded metallic connections and should thus be considered "welded" for purposes of the exemption from secondary containment requirements under 40 CFR 264.193 and 265.193. Mechanical joints, however, would need secondary containment.

The methods used to join plastic pipes and fittings depend on the type of plastic(s) being joined. Applicable ASTM practices should be consulted to ensure that the method used is compatible with the materials being joined. In addition, the recommendations of the manufacturer should be considered when determining which method and the details of the procedure to be used.

The ASTM standards provide specifications, test methods, practices, and guides for plastic pipes and fittings made from these plastics. Plastic pipes and fittings made from several other types of plastic—most notably polypropylene (PP) and poly(vinylidene fluoride)(PVDF)—are commonly available in a wide variety of sizes. However, they are not covered as such by ASTM specifications.

b. *Tubing connections.* Since promulgation of the revised standards for hazardous waste tank systems, the Agency has received numerous questions concerning the equivalence of tubing components to all-welded piping. These components, used in making connections to valves, instruments, pressure gauges, and other ancillary devices, employ soldered and brazed joints, compression-fittings, and flared-fitting joints.

EPA does not have sufficient information to determine that these types of connections are equivalent to "welding" and thus is not exempting these connections from the requirement of secondary containment. The Agency believes that further consideration of an exemption for these connections is necessary and welcomes any data that addresses the reliability of these connections.

i. *Soldered and brazed joints.* Soldering is a metal-joining process wherein a nonferrous alloy is heated to a suitable temperature and fused to the metals being joined. The filler metal (solder) is distributed between closely fitted surfaces of the joint by capillary attraction. In general, solders are lead-tin alloys and may contain antimony, bismuth, and other elements.

Soldered joints are most widely used in pipe or tubing sizes 2 inches and smaller where the heat requirements are less burdensome. Properly made, the joints are completely impervious. Soldered joints should not be used in areas where plant fires are likely because exposure to fire rapidly and completely melts the joints. Nor should they be used where the pipe contains flammable or toxic fluids or where the piping is subject to thermal shock or mechanical vibrations.

Brazing is a metal-joining process wherein a nonferrous metal is heated to a suitable temperature and fused to the metals being joined. The filler metal is distributed between the closely fitted surfaces of the joint by capillary attraction.

Silver-brazed joints are similar to soldered joints, except they require a temperature of about 1100°F for fusion to occur. Silver-brazed joints are used where temperature or the combination of temperature and pressure is beyond the range of soldered joints. They are also more reliable in the event of plant fires and are more resistant to vibration.

Braze welding is a welding process using a nonferrous filler metal having a melting point below that of the base

metals, but above 800 °F (427 °C). The filler metal is not distributed in the joint by capillary attraction.

EPA believes that soldered and brazed fittings are not equivalent to welded piping. Regardless of how well these joints are made, they will continue to be a greater source of leakage than a welded connection, which has the strength of the pipe itself. However, if installed properly and within their design limitations, EPA believes that these joints have a very low risk of leakage. If a leak does occur, it should be visually detected in most circumstances, and tubing normally has a piping take-off valve for isolation. Tubing also generally has small bores so leaks will normally be minor, except in high-pressure service.

Although the Agency acknowledges that these types of connections are somewhat less reliable than a welded connection, EPA believes that the combination of a relatively low risk of leakage, the required compliance with standards for proper design, installation, and inspection, and the impracticality of designing secondary containment for such connections may make a reasonable case for exempting these connections from the requirement for secondary containment. The Agency is continuing to study this issue and may amend the regulations in the future to provide such an exemption for these connections.

ii. *Compression Fittings.* A compression fitting can be an integral part of a tank system component (e.g., the fitting is built into the valve or pressure gauge), or it can be a separate piece that is threaded to the component. These fittings are used where the tubing has too high a ratio of wall thickness to diameter for flaring or where the tubing lacks sufficient ductility for flaring. The seal is made by a ferrule ring that is slipped over the end of the tube and compressed onto the tube by a compression nut on the fitting. The ferrule ring has two sealing surfaces: a smooth-bore inner-diameter surface that is compressed onto the tube surface, and a smooth conical-shaped outer-diameter surface that makes a metal-to-metal seal to a matching machined-cone surface in the body or housing of the compression fitting. The sleeve must be considerably harder than the tubing, yet still ductile enough to be diametrically compressed. It also must be as resistant as the tubing to corrosion by the fluid handled. Because the ferrule is under great compression force, a very tight seal is obtained. This force is usually sufficient to overcome differences in coefficients of thermal expansion of the materials used for the tube and fitting, normal vibration, and other factors that would cause threaded joints to leak.

Properly designed and manufactured compression fittings rarely leak. They are used in highly critical applications, such as connections for fuel lines and hydraulic systems on aircraft. Flareless compression fittings are used extensively and can be designed for systems up to 60,000 pounds per square inch gauge (psig). The ANSI B31.3 Code lists no restrictions for compression fittings, except that they be safeguarded if used in severe cyclic conditions. Leaks, when they occur, are usually attributed to one of the following causes:

—Dirt or debris trapped on the sealing surface;

—Improper torqueing (too loose or over-tightening);

—Wear or scoring from excessive removal and reinstallation of the connection;

—Damage from handling during installation or removal; or

—Excessive vibrations or bending moments at the tube-to-fitting interface.

EPA believes that compression fittings used on metallic tubing may be nearly as reliable as welded connections. EPA is considering amending the rules to exempt metal tubing that uses compression fittings (but not with a threaded connection between the fitting and device) from the secondary containment requirement.

The Agency is convinced, however, that secondary containment should be required for plastic piping connections that use compression fittings. Although plastic piping can be joined in a manner similar to compression fittings for metal piping, the technique is substantially different. Since metals are ductile, the ferrule metal seal and the tubing are both actually compressed by the compression nut. On the other hand, plastics are not as ductile or as strong as metals, and a seal is made by the much lower compressive force of an elastomer sealing ring. Thus, EPA does not believe that these plastic systems afford sealing equivalent to that of solvent-cemented or fused joints.

iii. *Flared-fitting joints.* Flared-fitting joints are used for ductile tubing in cases where the ratio of wall thickness to the diameter is small enough to permit flaring without cracking the inside surface. The tubing must have a smooth interior surface. A flared fitting that employs a sleeve avoids torsional strain on the tubing and minimizes vibration fatigue on the flared portion of the tubing. More labor is required for assembly, but it is more resistant to temperature cycling than other tubing fittings and is unlikely to be damaged by over-tightening. For these fittings, less control of tube diameter is required.

The Agency believes that flared-fitting joints, although not as reliable as compression fittings, still present a low risk of leakage. However, given the lack of available data on the reliability of flared-fitting joints, EPA is unable at this time to determine whether these joints should be exempted from the requirement of secondary containment. The Agency may consider this issue in a future rulemaking.

3. Exemption of Aboveground Sealless Valves

As previously discussed, 40 CFR 264.193 and 265.193 of the final rule exempt certain aboveground piping system components from the secondary containment requirement. EPA has received several inquiries regarding an apparent inconsistency between the discussion of these exemptions in the preamble (51 FR 25450, July 14, 1986) and the list of exemptions codified in 40 CFR 264.193(f)(1)–(4) and 265.193(f)(1)–(4) (51 FR 25475 and 25481). Sealless pumps are exempted under §§ 264.193(f) and 265.193(f) because they do not use traditional packing materials, which are a common source of leakage. Similarly, the Agency intended to exempt sealless valves, as mentioned in the preamble discussion, provided that a welded connection is used to join the sealless valve to the piping. However, the regulatory exemption refers to sealless pumps, but not sealless valves. Thus, today EPA is correcting its omission of sealless valves from the regulatory language of 40 CFR 264.193(f)(3) and 265.193(f)(3) by adding sealless valves to the list of piping components that need not be provided with secondary containment.

4. Extent of Required Leak Detection.

Sections 264.193(b) and 265.193(b) set out the performance standards for secondary containment systems. Additional details on how to meet these performance standards are found in §§ 264.193(c) and 265.193(c). EPA has received several inquiries regarding the intent of the wording in 40 CFR 264.193(c)(3) and 265.193(c)(3) which states that secondary containment systems must be:

> Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours * * *.

Numerous inquirers took this provision to mean that the Agency was intending that a leak detection capability be provided both within, and external to, the secondary containment structure. Several other inquirers requested clarification of whether the Agency requires detection of failure of either the primary or secondary containment structures or the presence of any release, or both.

Under this provision, EPA intended that the leak detection component of a secondary containment system promptly detect any release from the primary structure into the secondary containment structure. EPA used the wording, "Provided with a leak detection system that is designed and operated so that it will detect failure of either the primary or secondary containment structure", to ensure that double-walled tanks which detect failure of either the primary or the secondary containment structure (e.g., via loss of pressure in the interstitial space between the two walls) meet the requirements of §§ 264.193(b) and 265.193(b). This provision should not be interpreted to require leak detection outside of the secondary containment structure in order to detect failure of the secondary containment structure.

5. Requirements for Concrete Liners

In 40 CFR 264.193(e) (1) and (2), and 265.193(e) (1) and (2), EPA promulgated standards applicable to external liners and vault systems. The external liner requirements of 40 CFR 264.193(e)(1) and 265.193(e)(1) address the subject of liners generically. For example, they do not differentiate between synthetic membrane liners and concrete. On the other hand, the requirements for vault systems under 40 CFR 264.193(e)(2) and 265.193(e)(2) are applicable only to concrete.

However, EPA did not intend that concrete used, for example, as a base and diking material for secondary containment of an aboveground tank or onground tank should be subject to requirements significantly different from concrete that is used in the construction of a secondary containment vault. Certain of the requirements promulgated for concrete vaults are appropriate and are intended to be applied to situations where concrete is used in the construction of any secondary containment structures. Thus, concrete liner systems must also meet the more specific requirements of 40 CFR 264.193(e)(2) (iii) and (iv) and 265.193(e)(2) (iii) and (iv) in order to meet the general performance standards under 40 CFR 264.193(e)(1) (iii) and (iv) and 265.193(e)(1) (iii) and (iv), which specify that the liner system be free of cracks or gaps and designed to prevent migration of the waste. Chemical-resistant water stops at all joints, as specified in 40 CFR 264.193(e)(2)(iii) and 265.193(e)(2)(iii) are appropriate for any concrete structure serving as a secondary containment device. Likewise, given the relative permeability of concrete, the Agency believes that most secondary containment concrete structures, vaults or otherwise, will require an impermeable coating or lining that will prevent migration of waste into the concrete as specified in 40 CFR 264.193(e)(2)(iv) and 265.193(e)(2)(iv). Such coating or lining must also be compatible with the waste(s) managed within the secondary containment structure.

6. Secondary Containment of Pressurized Piping with Automatic Shut-Off Devices.

EPA has received a number of questions regarding the exemption from secondary containment of pressurized piping with automatic shut-off devices.

Under 40 CFR 264.193(f)(4) and 265.193(f)(4), aboveground pressurized piping systems with automatic shutoff devices that are visually inspected on a daily basis are exempt from the secondary containment requirement. Furthermore, this provision allows this exemption even if welded flanges, welded joints, welded connections, sealless valves, and sealless or magnetic coupling pumps are not used. However, the Agency is reconsidering this exemption. EPA may have over-estimated the effectiveness of automatic shut-off devices. Although these devices should certainly limit the quantity of waste released in case of a substantial failure somewhere in the piping system (e.g., pipe rupture), they would be unlikely to have any effect on reducing the number or size of releases in piping systems due to small or slow leaks at valves, connections, flanges, etc.

It was not EPA's intent to prescribe less importance to small leaks in pressurized piping systems. In fact, such less-than-major leaks would be of greater concern in pressurized piping systems compared to nonpressurized systems due to the potential to release larger quantities of hazardous waste.

Thus, the Agency believes that it may be prudent to require all aboveground piping systems, pressurized as well as nonpressurized, and even with automatic shut-off devices, to use welded joints, sealless valves, sealless or magnetic coupling pumps, etc., in order to be exempted from the secondary containment requirement. In fact, automatic shut-off devices may also need to be welded so as not to be a source of leakage. Using this approach, automatic shut-off devices might be used to protect against catastrophic releases and serve as a means to limit the size of the secondary containment system(s), where needed, rather than serve as a means for the entire piping system to be exempted from secondary containment. EPA is considering proposing such an amendment to the tank system standards in the near future.

C. Extent of Cathodic Protection for Primary Tanks

EPA received several inquiries regarding the intent of the 40 CFR 264.193(e)(3)(ii) and 265.193(e)(3)(ii). That regulation specifies double-walled tanks must be "protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell * * *." Apparently, this wording has been interpreted to mean that cathodic protection must be provided for the interior surface of the primary tank. This was not EPA's intent.

With respect to the interior of the primary tank, this requirement was chiefly intended to address the excessive or accelerated corrosion of the primary tank's interior surface resulting from incompatibility between the tank construction material and the stored waste(s). This provision thus reiterates the requirement found elsewhere in the standards (e.g., 40 CFR 264.191(b), 264.192(a)), that accelerated corrosion of the primary tank's interior surfaces must be prevented. However, this provision does not mandate cathodic protection of the interior surface of primary tank structures.

D. Application of the Immediate Response Exemption to Sumps

As part of the settlement of the *EEI* litigation, EPA agreed to clarify the applicability of the immediate response exemption under 40 CFR 264.1(g)(8) and 265.1(c)(11) to sumps. The July 14, 1986, final rule discussed three types of sumps that may be regulated as tanks under this revised rule: "temporary tanks," secondary containment sumps, and primary containment tanks. With respect to temporary tanks, i.e., tanks used for storage of waste in response to a leak or spill, and other temporary, unplanned occurrences, the Agency stated that no Subpart J standards were applicable since such storage was exempted from these regulatory requirements under 40 CFR 264.1(g)(8) and 265.1(c)(11) (51 FR 25445). Those sections (along with 40 CFR 270.1(c)(3))

exempt any person from permitting requirements and regulatory standards for "treatment or containment activities taken during immediate response to * * * [a] discharge of a hazardous waste", except requirements concerning preparedness and emergency procedures. The purpose of the exemption is to allow appropriate immediate response to hazardous waste discharges in emergency situations where treatment or storage is necessary but the facility owner or operator would not have had sufficient previous warning to comply with regulatory standards or obtain a RCRA permit for such treatment or storage (51 FR 25445, July 14, 1986); (48 FR 2509, January 19, 1983). A sump that may be used to collect hazardous waste in the event of a spill, whether accidental or intentional, and that is not designed to serve as a secondary containment structure for a tank storing hazardous waste, is generally exempt from regulatory and permitting requirements so long as it is used to contain hazardous waste only as an immediate response to such a spill.

Sumps that serve as part of a secondary containment system, i.e., to collect spills from a primary containment vessel storing hazardous waste, are subject to all applicable requirements for tank systems except for the requirement to obtain secondary containment. (51 FR 25441, July 14, 1986). In contrast to "temporary tanks", secondary containment sumps and all other secondary containment structures, are specifically designed to serve as the collection device for spills of hazardous waste from an adjacent primary containment vessel.

Finally, except as noted in section II.A. above, sumps that store hazardous waste as primary containment vessels are subject to all tank system requirements, including the requirement to obtain secondary containment (or a variance). Primary containment sumps are sumps designed to collect and transport routine and systematic discharges of hazardous waste (51 FR 25441, July 14, 1986). Sumps designed to serve as the storage for hazardous waste from periodic cleaning of utility boilers, for example, are primary containment vessels, although as explained above they will still qualify for an exemption from the tank system requirements if they are used as ancillary equipment to an exempted wastewater treatment or elementary neutralization unit. See Section II.A. *supra.*

In short, upon consideration of 40 CFR 264.1(g)(8) and 265.1(c)(11) and the interrelationship of these provisions with the July 14, 1986 final rule, EPA believes that some sumps may be exempt from regulation under this provision. This interpretation is consistent with the preamble discussion of the spill exemption provision (48 FR 2508, January 19, 1983). As explained in that preamble, the purpose of the provision was to address emergency situations, whether due to accidental discharges or to spills during routine maintenance of equipment, where there is no time to comply with technical and procedural requirements pertaining to storage and treatment of hazardous waste (48 FR 2509, January 19, 1983). This rationale is inapplicable to units constructed for the purpose of containing hazardous waste from routine and systematic discharges of hazardous waste or designed to serve as the secondary containment for a tank system treating or storing hazardous waste.

III. Correction of Typographical Errors

On August 15, 1986, EPA published in the **Federal Register** a notice of corrections to the revised final tank system standards (51 FR 29430). Since that time, a number of additional typographical or coding errors in the final rules or in the notice of corrections have been brought to EPA's attention.

Several coding errors were a result of EPA's omission on several occasions of the word "system" when the term "tank system" as opposed to "tank" was intended to be used. In general, it is the Agency's intent that both a regulated hazardous waste tank and its ancillary equipment be subject to the revised standards of July 14, 1986. As such, EPA promulgated a definition of "tank system." Although the Agency tried to ensure that the term "tank system" was incorporated, wherever applicable, into the final rule, EPA apparently overlooked several situations where this term should have been likewise inserted. As previously discussed in Section II.A.1, the definition of "elementary neutralization unit" and "wastewater treatment unit" should have included the term "tank system." Likewise, the word "system" was inadvertently omitted from 40 CFR 264.190 and 265.190. In these paragraphs, the exemption from secondary containment was intended to apply to any tank and its ancillary equipment, i.e., any portion of the tank system, situated inside a building with an impermeable floor. In 40 CFR 264.190(b) and 265.190(b) a different omission occurred. Although the Agency's intent is not to require secondary containment of tank systems, including sumps, that serve the purpose of secondary containment, EPA does intend that these secondary containment systems, or portions thereof, must meet the design, installation, and operation requirements for a secondary containment system in accordance with 40 CFR 264.193(b)–(i) and 265.193(b)–(i). It is EPA's intent that these units be exempted only from 40 CFR 264.193(a) and 265.193(a), that, in any case, is redundant of the provision requiring secondary containment.

Another omission occurred in 40 CFR 264.193(f) and 265.193(f) in that EPA neglected to include aboveground sealless valves under the exemption from secondary containment. As evidenced in the preamble discussion for the July 14, 1986 standards (51 FR 25450), it was the Agency's intent that the exemption be applicable to these valves. A detailed discussion of this omission is provided in Section II.B.3.

EPA, in the process of including tank systems in the applicability section of the closure and post-closure requirements in Subpart G (40 CFR 265.110), inadvertently deleted the previously existing 40 CFR 265.110(b)(2), that addresses the applicability of Subpart G to waste piles and surface impoundments. Consistent with 40 CFR 264.110, EPA is today reinstating this provision in 40 CFR 265.110 and renumbering the paragraph as applied to tank systems. Today's rule also incorporates a conforming change into 40 CFR 264.114 and 265.114. In the revised tank system standards, EPA promulgated specific closure and post-closure care requirements in 40 CFR 264.197 and 265.197 and stated that tank systems also must meet the requirements of Subparts G and H, unless otherwise specified. EPA neglected to make the cross-reference in 40 CFR 264.114 and 265.114 to allow alternate post-closure care for certain tank systems as specified in CFR 264.197 and 265.197.

Several typographical errors have also been brought to the Agency's attention. In the first Note for 40 CFR 264.196 and 265.196, the reference to RCRA section 3004(u) and 3004(w), respectively, is a mistake. The correct reference should be RCRA section 3004(v). Another typographical error appeared in 40 CFR 265.201(c)(3) where a wrong citation of a paragraph was made. Instead of referring to "40 CFR 265.192(c)," a provision that has nothing to do with the level of waste in a tank, "40 CFR 265.201(b)(3) " requiring that uncovered tanks be operated to ensure at least 60 centimeters of freeboard, should have been cited. In this notice, EPA is also correcting these errors.

IV. Compliance With Administrative Procedure Act Requirements

Section 553(b) of the Administrative Procedure Act generally requires proposal of administrative rulemakings to receive public comment prior to promulgation. However, section 553(b) excludes certain types of rules from the prior notice-and-comment requirement, including interpretative rules and rules for which public comment is unnecessary. Because today's notice includes only interpretative statements concerning existing hazardous waste tank system requirements and minor technical corrections, prior notice and the solicitation of public comment on this notice is unnecessary.

List of Subjects in 40 CFR Parts 260, 264, 265, and 270

Administrative practice and procedure, Environmental protection, Hazardous waste, Tank systems, Waste storage and treatment, Water pollution control, Water supply.

Dated: August 24, 1988.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the Preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

40 CFR Part 260 is amended as follows:

1. The authority citation for Part 260 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001 through 3007, 3010, 3014, 3015, 3017, 3018, and 3019 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, 6935, 6937, 6938, and 6939).

2. Section 260.10 is amended by revising the following definitions in alphabetical order:

§ 260.10 Definitions.

* * * * *

"Elementary neutralization unit" means a device which: (1) Is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in § 261.22 of this chapter, or they are listed in Subpart D of Part 261 of the chapter only for this reason; and

(2) Meets the definition of tank, tank system, container, transport vehicle, or vessel in § 260.10 of this chapter.

* * * * *

"Wastewater treatment unit" means a device which: (1) Is part of a wastewater treatment facility that is subject to regulation under either section 402 or 307(b) of the Clean Water Act; and

(2) Receives and treats or stores an influent wastewater that is a hazardous waste as defined in § 261.3 of this chapter, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in § 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this Chapter; and

(3) Meets the definition of tank or tank system in § 260.10 of this chapter.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

40 CFR Part 264 is amended as follows:

3. The authority citation for Part 264 continues to read as follows:

Authority: Secs. 1006, 2002, 3004, and 3005 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, and 6925).

4. Section 264.114 is amended by revising the first sentence to read as follows:

§ 264.114 Disposal or decontamination of equipment, structures and soils.

During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in §§ 264.197, 264.228, 264.258, 264.280 or § 264.310. * * *

5. Section 264.190 is amended by revising the first sentence of paragraph (a) and by revising paragraph (b) to read as follows:

§ 264.190 Applicability.

* * * * *

(a) Tank systems that are used to store or treat hazardous waste which contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in § 264.193. * * *

(b) Tank systems, including sumps, as defined in § 260.10, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in § 264.193(a).

* * * * *

6. Section 264.193 is amended by revising paragraph (f)(3) to read as follows:

§ 264.193 Containment and detection of releases.

* * * * *

(f) * * *

(3) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

* * * * *

7. Section 264.196 is amended by revising the first Note to read as follows:

§ 264.196 Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

* * * * *

Note.—The Regional Administrator may, on the basis of any information received that there is or has been a release of hazardous waste or hazardous constituents into the environment, issue an order under RCRA section 3004(v), 3008(h), or 7003(a) requiring corrective action or such other response as deemed necessary to protect human health or the environment.

* * * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

40 CFR Part 265 is amended as follows:

8. The authority citation for Part 265 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3004, 3005, and 3015, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935).

9. Section 265.110 is amended by redesignating existing paragraph (b)(2) as (b)(3), and adding a new paragraph (b)(2) to read as follows:

§ 265.110 Applicability.

* * * * *

(b) * * *

(2) Waste piles and surface impoundments for which the owner or operator intends to remove the wastes at closure to the extent that these sections are made applicable to such facilities in § 265.228 or § 265.258; and

* * * * *

10. Section 265.114 is amended by revising the first sentence to read as follows:

§ 265.114 Disposal or decontamination of equipment, structures and soils.

During the partial and final closure periods, all contaminated equipment, structures and soil must be properly disposed of, or decontaminated unless specified otherwise in §§ 265.197, 265.228, 265.258, 265.280, or 265.310. * * *

11. Section 265.190 is amended by revising the first sentence of paragraph (a) and by revising paragraph (b) to read as follows:

§ 265.190 Applicability.

* * * * *

(a) Tank systems that are used to store or treat hazardous waste which contains no free liquids and that are situated inside a building with an impermeable floor are exempted from the requirements in § 265.193. * * *

(b) Tank systems, including sumps, as defined in § 260.10, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in § 265.193(a).

* * * * *

12. Section 265.193 is amended by revising paragraphs (f)(3) and (g)(3)(iii) to read as follows:

§ 265.193 Containment and detection of releases.

* * * * *

(f) * * *

(3) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

* * * * *

(g) * * *

(3) * * *

(iii) If contaminated soil cannot be removed or decontaminated in accordance with paragraph (g)(3)(ii) of this section, comply with the requirements of § 265.197(b);

* * * * *

13. Section 265.196 is amended by revising the first Note to read as follows:

§ 265.196 Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

* * * * *

Note.—The Regional Administrator may, on the basis of any information received that there is or has been a release of hazardous waste or hazardous constituents into the environment, issue an order under RCRA section 3004(v), 3008(h), or 7003(a) requiring corrective action or such other response as deemed necessary to protect human health or the environment.

* * * * *

14. Section 265.201 is amended by revising paragraph (c)(3) to read as follows:

§ 265.201 Special requirements for generators of between 100 and 1,000 kg/mo that accumulate hazardous waste in tanks.

* * * * *

(c) * * *

(3) The level of waste in the tank at least once each operating day to ensure compliance with § 265.201(b)(3);

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

40 CFR Part 270 is amended as follows:

15. The authority citation for Part 270 is revised to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

16. Section 270.2 is amended by revising the following definitions in alphabetical order:

§ 270.2 Definitions.

* * * * *

Elementary neutralization unit means a device which: (a) Is used for neutralizing wastes only because they exhibit the corrosivity characteristic defined in § 261.22 of this chapter, or are listed in Subpart D of Part 261 of this chapter only for this reason; and (b) Meets the definition of tank, tank system, container, transport vehicle, or vessel in § 260.10 of this chapter.

* * * * *

Wastewater treatment unit means a device which:

(a) Is part of a wastewater treatment facility which is subject to regulation under either section 402 or 307(b) of the Clean Water Act; and

(b) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in § 261.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter; and

(c) Meets the definition of tank or tank system in § 260.10 of this chapter.

* * * * *

[FR Doc. 88-19630 Filed 9-1-88; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6806]

Suspension of Community Eligibility; Alabama et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective date shown in this rule because of noncompliance with the revised floodplain management criteria of the NFIP. If FEMA receives documentation that the community has adopted the required revisions prior to the effective suspension date given in this rule, the community will not be suspended and the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: As shown in fifth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, Federal Center Plaza, 500 C Street SW., Room 416, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the NFIP (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures.

On August 25, 1986, FEMA published a final rule in the **Federal Register** that revised the NFIP floodplain management criteria. The rule became effective on October 1, 1986. As a condition for continued eligibility in the NFIP, the criteria at 44 CFR 60.7 require communities to revise their floodplain management regulations to make them consistent with any revised NFIP regulation within 6 months of the effective date of that revision or be subject to suspension from participation in the NFIP.

The communities listed in this notice have not amended or adopted floodplain management regulations that incorporate the rule revision. Accordingly, the communities are not compliant with NFIP criteria and will be suspended on the effective date shown in this final rule. However, some of these communities may adopt and submit the required documentation of legally enforceable revised floodplain management regulations after this rule is