Environmental Conservation Law (ECL), as amended by Chapter 760, McKinney's 1975 Session Laws of New York, and also an opinion, dated January 27, 1977, by the Honorable Louis J. Lefkowitz, Attorney General of the State of New York, interpreting both the amended ECL and Part 200.2 of Title 6 of New York State's Official Compilation of Codes, Rules, and Regulatons (6 NYC RR 200.2). Prior to the amendment of ECL § 19-0305(2)(a), the Environmental Protection Agency had disapproved the inclusions of this law and 6 NYCRR 200.2 as parts of the SIP because they did not provide an adequate mechanism for public availability of emission data and did not give the State adequate legal authority to make emission data available to the public as required under EPA regulation.

On September 26, 1974, EPA promulgated 40 CFR 52.1685(a) and 40 CFR 52.-1686(a)(39 FR 34537). This action disapproved the inclusion as a part of the SIP of the New York State regulation and law pertaining to public access to emission data. A substitute federal regulation, 40 CFR 52.1685(b), was promulgated on November 28, 1975 (40 FR 55332). This action made public availability of emission data a matter subject to federal regulation.

Based on the New York State Attorney General's opinion and its own review, EPA now finds that ECL § 19-0305(2)(a), as amended, gives the State adequate legal authority to make emission data available to the public and that 6 NYCRR 200.2, when read in conjunction with the amended statute, also adequately provides for public availability of emission data. Therefore, both the amended statute, ECL § 19-0305(2)(a), and 6 NYCRR 200.2 are approved for incorporation into the New York State Implementation Plan. Furthermore, this action revokes 40 CFR 52.1685(a), 40 CFR 52.1685(b) and 40 CFR 52.1686(a) since Federal regulation no longer is necessary.

No comments were received from the public in response to the July 25, 1977 notice of proposed rulemaking.

This action is effective immediately since the State's statute and regulation are currently in effect and their approval will impose no additional burden on those affected.

Dated: November 3, 1977.

DOUGLAS M. COSTLE,
Administrator, Environmental Protection Agency.

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

Subpart HH—New York

1. In § 52.1670, paragraph (c) is amended by adding new subparagraph (35) as follows:

§ 52.1670 Identification of plans.

* * * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(35) Revision submitted on February 14, 1977 by the New York State Department of Environmental Conservation consisting of Section 19.0305(2)(a) of New York State's Environmental Conservation Law (ECL), as amended by Chapter 760, McKinney's 1975 Session Laws of New York, and an opinion, dated January 27, 1977, by the Honorable Louis J. Lefkowitz, Attorney General of the State of New York, interpreting the amended ECL § 19-0305(2)(a) and Part 200.2 of Title 6 of the New York State Official Compilation of Codes, Rules, and Regulations (6 NYCRR 200.2). This revision provides for adequate State legal authority to ensure for public availability of air pollutant emission data as required under 40 CFR 51.10(e) and § 51.11(a)(6).

2. § 52.1685 is revoked and reserved.

§ 52.1685 [Reserved]

3. § 52.1686 is revoked and reserved.

§ 52.1686 [Reserved]

(Sections 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601).)

[FR Doc.77-32673 Filed 11-9-77;8:45 am]

[6560-01]

[FRL 781-7]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Amendment to Subpart O: Sewage Sludge Incinerators

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule revises the applicability of the standard of performance for sewage sludge incinerators to cover any incinerator that burns wastes containing more than 10 percent sewage sludge (dry basis) produced by municipal sewage treatment plants, or charges more than 1000 kg (2205 lb) per day municipal sewage sludge (dry basis). The State of Alaska requested that EPA revise the standard because incinerators small enough to meet the needs of small communities in Alaska and comply with the particulate matter standard are too costly, and land disposal is not feasible in areas with permafrost and high water tables. The intended effect of the revision is to exempt from the standard small incinerators for the combined disposal of municipal wastes and sewage sludge when land disposal, which is normally a cheaper and preferable alternative, is infeasible due to permafrost, high water tables, or other conditions.

DATES: This amendment is effective November 10, 1977, as required by § 111(b)(1)(B) of the Clean Air Act as amended.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: On January 26, 1977 (42 FR 4863), EPA published a proposed amendment to Subpart O of 40 CFR Part 60. An error in that proposal necessitated a correction notice that was published on February 18, 1977 (42 FR 10019). The proposed amendment exempted any sewage sludge incinerator located at a municipal waste treatment plant having a dry sludge capacity below 140 kg/hr (300 lb/hr), and where it would not be feasible to dispose of the sludge by land application or in a sanitary landfill because of freezing conditions. Prompting this amendment was a request by the State of Alaska which noted (1) the limited availability of small sludge incinerators which can meet the particulate matter standard, and (2) the difficulty of using landfills as an alternative means of sewage sludge disposal in some Alaskan communities because of permafrost conditions.

During the comment period on that proposal, four comment letters were received. Copies of these letters and a summary of the comments with EPA's responses are available for public inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. In addition, copies of the comment summary and Agency responses may be obtained upon written request from the Public Information Center (PM-215), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (specify Public Comment Summary: Amendment to Standards of performance for Sewage Treatment Plants).

One commenter requested that industrial sludge incineration also be exempted by this revision. Only incinerators which burn sludge produced by municipal sewage treatment plants are covered by Subpart O. Incineration of industrial sludges are not covered because they may involve special metal, toxic and radioactive waste problems which were not addressed by the original study for developing the standard.

Three other commenters questioned the applicability of the proposed amendment. One questioned the need for the proposed exemption, arguing that small incinerators with control devices sufficient to meet the existing particulate emission standard of 0.65 g/kg dry sludge input are commercially available and should be used. Two others recommended wording to broaden the proposed exemption. They suggested that the amendment as proposed is too restrictive, considering the conditions faced by small communities in Alaska. One noted that high water-table levels severely limit land disposal of sludge in many areas. The other made a similar comment but attributed the problem to high rainfall as well.

Based upon these comments, EPA reevaluated the need for the proposed exemption. EPA recognizes that at least one type of incinerator (the fluidized-bed type) can be constructed in size cat-

egories of less than 140 kg/hr (300 lb/hr) and with emission control equipment capable of achieving the existing standard. However, separate sludge disposal by an incinerator dedicated exclusively to sewage sludge is unduly costly for a small community. This conclusion is based on data contained in two EPA publications: A Guide to the Selection of Cost-Effective Wastewater Treatment Systems (EPA-430/9-75-002), and Municipal Sludge Management: EPA Construction Grants Program—An Overview of the Sludge Management Situation (EPA-430/9-76-009). Sludge incineration costs, especially those for operation and maintenance, were compared for sewage treatment plants of 1 and 10 million gallons per day (mgd) capacity. Costs for a 1 mgd plant (about 1000 kg of dry sludge per day) were 100 to 300 percent higher than those for a 10 mgd facility. A small, remote community which already incinerates its other municipal wastes would bear the heaviest burden if forced to incinerate its sewage sludge separately.

In most instances, neither municipal waste nor sewage sludge incinerators are constructed because land disposal is a more cost-effective alternative. The co-incineration of sewage sludge with solid waste should be a cost-effective and energy-efficient disposal alternative whenever land disposal options are not reasonably available. Since high water table levels, high annual precipitation, freezing conditions, and other factors limit or preclude the land application or sanitary landfilling of sludge, EPA has decided to broaden the exemption. Only freezing conditions were considered in the proposed exemption. However, an exemption based on these additional factors would be difficult to enforce due to climatic variability.

In order to make the exemption sufficiently broad and readily enforceable, EPA has decided to exempt incinerators that burn not more than 1000 kg per day of sewage sludge from municipal sewage treatment plants provided that the sewage sludge (dry basis) does not comprise, by weight, more than 10 percent of the total waste burned. The exemption provides relief only when sewage sludge is co-incinerated with municipal wastes, since any incinerator combusting more than 10 percent sewage sludge is affected by the emission standard regardless of the amount of sludge combusted. This approach, is based principally on the economics of sewage waste disposal and applies to any small community faced with very difficult land disposal conditions. It allows disposal of small quantities of sewage sludge in incinerators primarily combusting municipal refuse.

Currently, sludge incineration for small communities is 50 to 100 percent more costly per ton of dry sludge than land application or sanitary landfilling. Even though EPA is proposing criteria for landfill design and operation, the costs of incineration are expected to remain significantly higher. Thus, it is expected that this exemption will not cause a shift to incineration, but will only provide relief in areas where land disposal is either infeasible or very costly.

The purpose of the amendment is to relieve small communities (<9,000 population) of the burden of constructing separate incinerators for municipal wastes and sewage sludge in areas where land disposal is not feasible. Co-incineration of sewage sludge with solid wastes is less costly than separate sludge incineration and provides an energy benefit in lower auxiliary fuel consumption. Without this amendment, any co-incineration facility would have been considered a sludge incinerator under Subpart O.

Since sludge incineration costs decline as the quantities disposed of increase, this amendment limits the exemption to co-incineration units burning not more than 1000 kg (2205 lb) dry sludge per day. At an average generation rate of 0.11 kg (0.25 lb) dry sludge per person per day, the 1000 kg limit represents a population of approximately 9,000 persons. The 10 percent sludge allowance in such co-incineration is based on the fact that an average community generates about 14 times as much solid waste per person as dry sludge. Thus the 10 percent allowance should easily permit a small community to co-incinerate all its sludge and solid waste in one facility.

This amendment does not affect the applicability of the National Emission Standard for Mercury under 40 CFR Part 61. However, significant mercury wastes are usually not found in sewage sludge from small communities, but are more commonly found in metropolitan wastes from industrial activity.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect emission limits achievable with the best adequately demonstrated systems of emission reduction considering the cost of such systems. State implementation plans (SIPs) approved or promulgated under section 110 of the Act, on the other hand, must provide for the attainment and maintenance of national ambient air quality standards (NAAQS) designed to protect public health and welfare. For that purpose SIPs must in some cases require greater emission reductions than those required by standards of performance for new sources.

States are free under section 116 of the Act to establish even more stringent emission limits than those necessary to attain or maintain the NAAQS under section 110 or those for new sources established under section 111. Thus, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: November 3, 1977.

DOUGLAS M. COSTLE,
Administrator.

In 40 CFR Part 60, Subpart O is amended by revising § 60.150 and § 60.153 as follows:

§ 60.150 Applicability and designation of affected facility.

(a) The affected facility is each incinerator that combusts wastes containing more than 10 percent sewage sludge (dry basis) produced by municipal sewage treatment plants, or each incinerator that charges more than 1000 kg (2205 lb) per day municipal sewage sludge (dry basis).

(b) Any facility under paragraph (a) of this section that commences construction or modification after June 11, 1973, is subject to the requirements of this subpart.

§ 60.153 Monitoring of operations.

(a) The owner or operator of any sludge incinerator subject to the provisions of this subpart shall:

(1) Install, calibrate, maintain, and operate a flow measuring device which can be used to determine either the mass or volume of sludge charged to the incinerator. The flow measuring device shall have an accuracy of ±5 percent over its operating range.

(2) Provide access to the sludge charged so that a well mixed representative grab sample of the sludge can be obtained.

(3) Install, calibrate, maintain, and operate a weighing device for determining the mass of any municipal solid waste charged to the incinerator when sewage sludge and municipal solid waste are incinerated together. The weighing device shall have an accuracy of ±5 percent over its operating range.

(Sections 111, 114, 301(a) of the Clean Air Act as amended [42 U.S.C. 1857c-6, 1857c-9, 1857g(a)].)

[FR Doc.77-32697 Filed 11-9-77;8:45 am]

[6820-25]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

[FPMR Amendment F-29]

PART 101-35—TELECOMMUNICATIONS

Listening-in Devices

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This Final rule documents the General Services Administration's policy concerning the use of telecommunications listening-in devices. Recent inquiries from Government agencies concerning these devices have pointed

out the need to expand the regulations to prevent abuses and to provide a central point for documenting deviations.

EFFECTIVE DATE: November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert R. Johnson, Regulations Branch, Agency Services Division, Office of Agency Assistance, Planning, and Policy, Automated Data and Telecommunications Service, General Services Administration, Washington, D.C. 20405. Telephone 202-566-0834.

SUPPLEMENTAL INFORMATION: While existing GSA regulations generally prohibit the use of listening-in devices, there is a need to ensure against abuse and to maintain records of authorized applications of such devices. In order to establish a base for the accounting of these devices an initial inventory must be accomplished. Therefore, each agency is requested to provide to General Services Administration (CPSR) by January 9, 1977, a list of all nonsurreptitious listening-in devices in use as of November 10, 1977, and a copy of the determinations as required by § 101-35.307-2 for each device listed.

The table of contents for Part 101-35 is amended by adding § 101-35.311 as follows:

101-35.311 Listening-in devices.

Subpart 101-35.2—Major Changes and New Installations

Section 101-35.202(a)(3) is revised to read as follows:

§ 101-35.203 Justification of major changes and new installations.

* * * * *

(a) * * *

* * * * *

(3) In addition to the information required in paragraphs (a) (1) and (2), above, the requests for ACD's shall include a statement that the monitoring, service observing, or listening-in features of ACD's will be removed or disabled at the time of installation. These features are prohibited, and existing as well as future ACD's shall have this function removed unless specifically authorized. (See § 101-35.311.)

Subpart 101-35.3—Utilization and Ordering of Telecommunications Services

1. Section 101-35.308-9(f) is reserved as follows:

§ 101-35.308-9 Special service and equipment.

* * * * *

(f) [Reserved]

* * * * *

2. Section 101-35.311 is added to read as follows:

§ 101-35.311 Listening-in devices.

(a) The surreptitious listening or recording of oral or wire communications is prohibited except as provided for in the Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. 2510 et seq.), and other applicable statutes or regulations. In the excepted cases, the devices shall be ordered directly from the commercial vendors and are exempted from the reporting requirements of this Part 101-35.

(b) The installation and use for nonsurreptitious purposes of a listening-in device or any other telecommunication device with the capacity for the interception of oral or wire communications is also prohibited. Listening-in devices include such items as push-to-talk feature on handset, push-to-listen feature on handset, monitoring equipment for service training and assistance, etc. Deviation from this prohibition is permitted only when the head of an agency or his authorized designee determines that it is essential to the effective execution of agency responsibilities or is required for operational needs. Orders placed through GSA facilities for this equipment shall be accompanied by a copy of the written determination. At the same time orders for the installation or removal of this equipment are placed directly with a commercial vendor, a copy of the order shall be submitted to the General Services Administration (CPSR), Washington, D.C. 20405.

(c) GSA will provide assistance to agencies in determining what devices fall within the above-cited prohibited devices category; i.e., have the capacity to listen-in, monitor or intercept oral or wire communications, etc. Requests for assistance shall be addressed to General Services Administration (CPSR), Washington, D.C. 20405.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

NOTE: The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: November 1, 1977.

JAY SOLOMON,
Administrator of General Services.

[FR Doc.77-32571 Filed 11-9-77;8:45 am]

[4910-60]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-103/112; Amdt. No. 172-39]

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

Extension of Placarding Compliance Date

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Final rule.

SUMMARY: Under this rule, rectangular hazardous materials warning placards (and equivalent markings) formerly required to be displayed on highway vehicles carrying hazardous materials may be used in place of the square-on-point placards which have superseded them. The rule will be effective from January 1, 1978 through June 30, 1978 only, and is intended to give additional time for compliance with recent changes in placarding requirements. This action is based upon considerations raised in petitions and in the course of a hearing that was held on July 21, 1977.

EFFECTIVE DATE: This amendment is effective on January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Donnell W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, Federal Highway Administration, Washington, D.C. 20590, 202-426-1700.

SUPPLEMENTARY INFORMATION: On July 21, 1977, the Materials Transportation Bureau (MTB) conducted a hearing to receive public comment on the merits of the American Trucking Associations, Incorporated's (ATA) and the National Oil Jobbers Council's (NOJC) petitions to delay mandatory placarding for those vehicles equipped with permanent placarding systems. Written comments were also solicited in the June 6, 1977 notice which announced the July 21 hearing (42 FR 28951). Both oral and written comments were considered in the drafting of this amendment.

The NOJC's petition requested that the effective date of the new placarding requirements be delayed until September 1, 1978, for vehicles currently in use. Since this amendment effectively delays mandatory use of the new placards until July 1, 1978, most of the relief sought in the NOJC petition in effect has been granted for reasons stated elsewhere in this document. However, the MTB believes the NOJC has not justified its petition.

The NOJC contends its membership recently expended over 9 million dollars to bring its vehicles into compliance with the new flammable and combustible liquids definition which became effective January 1, 1976, under Docket No. HM-102. They contend an additional outlay of 6 million dollars is now required for removal of old rectangular placards, painting vehicles, and applying new square-on-point placards. The 9 million dollars spent to comply with HM-102 has already been incurred, and since there is no requirement that a rectangular placard communicating the proper hazard be removed, costs for removing old placards and repainting of vehicles is not necessary to achieve compliance with the new placarding requirements. Based on the foregoing, the NOJC's petition to delay the mandatory placarding effective date until September 1, 1978, for vehicles currently in use, is hereby denied.

The ATA petitioned for a "* * * grandfather provision which would allow motor carriers presently using permanent type rectangular placarding systems to continue using such systems for the useful life of either the permanent placard itself or the vehicle upon which the set is attached, whichever period is shorter." The ATA also petitioned for a delay of the mandatory effective date for