proposed discontinuance is determined not to be warranted or

(B) The matter be returned to an appropriate stage under this section for further consideration following such instructions as the vice president, Delivery and Retail, may provide.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 04–5402 Filed 3–10–04; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Region 2 Docket No. PR11–267c; FRL–7634–2]

Approval and Promulgation of State Plans for Designated Facilities; Puerto Rico

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the ''State Plan'' submitted by the Commonwealth of Puerto Rico to fulfill the requirements of sections 111(d)/129 of the Clean Air Act for Commercial and Industrial Solid Waste Incineration (CISWI) units. Puerto Rico's State Plan provides for the implementation and enforcement of the Emissions Guidelines, as promulgated by EPA on December 1, 2000, applicable to existing CISWI units for which construction commenced on or before November 30, 1999. Specifically, the State Plan that EPA is approving today, establishes emission limits for organics, carbon monoxide, metals, acid gases and particulate matter and compliance schedules for the existing CISWI units located in the Commonwealth of Puerto Rico which will reduce the designated pollutants.

DATES: This rule is effective on April 12, 2004.

ADDRESSES: Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Environmental Protection Agency, Region 2, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, San Juan, Puerto Rico 00907–4127.

Puerto Rico Environmental Quality Board, National Plaza Building, 431 Ponce De Leon Avenue, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381 or *Wieber.Kirk@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Sections 111(d) and 129 of the Clean Air Act (CAA) require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources. However, section 129 of the CAA, also requires EPA to promulgate the EG for Commercial and Industrial Solid Waste Incineration (CISWI) units that emit a mixture of air pollutants. These pollutants include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter (including opacity). On December 1, 2000 (65 FR 75338), EPA promulgated CISWI unit new source performance standards and the EG, 40 CFR part 60, subparts CCCC and DDDD, respectively. The designated facility to which the EG apply is each existing CISWI unit, as defined in subpart DDDD, that commenced construction on or before November 30, 1999.

Section 111(d) of the CAA requires that ''designated'' pollutants, regulated under standards of performance for new stationary sources by section 111(b) of the CAA, must also be controlled at existing sources in the same source category to a level stipulated in an EG document. Section 129 of the CAA specifically addresses solid waste combustion and emission controls based on what is commonly referred to as ''maximum achievable control technology'' (MACT). Section 129 requires EPA to promulgate a MACT based emission guidelines document for CISWI units, and then requires states to develop plans that implement the EG requirements. The CISWI EG under 40 CFR part 60, subpart DDDD, establishes emission and operating requirements under the authority of the CAA, sections 111(d) and 129. These requirements must be incorporated into a state plan that is ''at least as protective'' as the EG, and is Federally enforceable upon approval by EPA. The procedures for adoption and submittal of state plans are codified in 40 CFR part 60, subpart B.

II. Puerto Rico's Submittal

On May 20, 2003, the Puerto Rico Environmental Quality Board (PREQB) submitted to EPA a section 111(d)/129 plan to implement 40 CFR part 60 subpart DDDD—Emission Guidelines, for existing CISWI units located in the Commonwealth of Puerto Rico. PREQB's submittal included: enforceable mechanisms; the necessary legal authority; inventory of CISWI units; emissions inventory; enforceable compliance schedules; testing, monitoring, recordkeeping, and reporting requirements; record of public hearing; and a provision for annual state progress reports.

For a detailed description and full evaluation of the Puerto Rico CISWI plan that EPA is approving today, the reader is referred to the rulemaking actions (68 FR 62019 and 68 FR 62040) published in the **Federal Register** on October 31, 2003.

III. Comments in Response to EPA's Proposal

A. Background Information

On October 31, 2003, EPA announced, in proposed and direct final rules published in the **Federal Register** (68 FR 62019 and 68 FR 62040, respectively), approval of Puerto Rico's CISWI plan. On November 6, 2003, EPA received an adverse comment on the direct final rule. EPA had indicated in its October 31, 2003, direct final rule that if EPA received adverse comments, it would withdraw the direct final rule. Consequently, EPA informed the public, in a removal notice published in the **Federal Register** (69 FR 2304) on January 15, 2004, that EPA received an adverse comment and that the direct final rule was being removed. EPA did not receive any other comments. EPA is addressing the adverse comment in today's final rule based upon the proposed action published on October 31, 2003.

B. Comments Received and EPA's Response

EPA received one adverse comment on its August 11, 2003 direct final rule to approve Puerto Rico's CISWI plan

from a concerned citizen. That comment and EPA's response follows.

Comment: The PREQB is not effectively managing the air programs in the island. Permits are provided to facilities which do not comply with the regulations and new emission standards go unattended. Many facilities in Puerto Rico are currently discharging more than the amount of emissions permitted and on many occasions without a permit. Approving the CISWI plan will simply do nothing for the protection of human health or the environment of Puerto Rico.

Response: It should be noted that the commentor did not provide any documentation or justification in support of its allegations. In addition, the comment does not directly address Puerto Rico's CISWI plan, but rather addresses its permitting program. 40 CFR 60.26 requires that a section 111(d) plan demonstrate that the state has the necessary legal authority to adopt and implement the plan. In order to make this demonstration, the plan must show that the state has the legal authority to adopt emission standards and compliance schedules for the designated facilities; enforce the applicable laws, regulations, emission standards and compliance schedules, including the ability to obtain injunctive relief; the authority to obtain information from the designated facilities in order to determine compliance, including the authority to require recordkeeping from the facilities, to make inspections and to conduct tests at the facilities; the authority to require designated facilities to install, maintain and use emission monitoring devices; the authority to require periodic reporting to the state on the nature and amounts of emissions from the facility; and the authority for the state to make such emissions data available to the public. Puerto Rico has demonstrated all these elements exist within its enabling legislation and regulations to the extent that EPA has determined the Puerto Rico CISWI plan to be approvable.

In addition, upon the effective date of EPA's final approval of the Puerto Rico CISWI plan, the requirements of Puerto Rico's plan become federally enforceable. This enables EPA to take its own enforcement actions against facilities that may not comply with the approved CISWI requirements.

IV. Conclusion

EPA has evaluated the CISWI plan submitted by Puerto Rico for consistency with the CAA, EPA emission guidelines and policy. EPA has determined that Puerto Rico's Plan meets all requirements and, therefore, EPA is approving Puerto Rico's Plan to implement and enforce subpart DDDD, as promulgated on December 1, 2000, applicable to existing CISWI units that have commenced construction on or before November 30, 1999. EPA is also approving revisions to Rule 102 and Rule 405 of the Puerto Rico Regulations for the Control of Atmospheric Pollution, entitled, ''Definitions'' and ''Incineration'', respectively.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Puerto Rico's State plan applies to all affected sources regardless of whether it has been identified in its plan. Therefore, EPA has concluded that this rulemaking action does not have federalism implications nor does it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a state plan submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 10, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Acid gases, Carbon monoxide, Commercial and industrial solid waste, Intergovernmental relations, Organics, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 27, 2004.

Kathleen C. Callahan,

Acting Regional Administrator, Region 2.

■ Part 62, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart BBB—Puerto Rico

■ 2. Subpart BBB is amended by adding a new undesignated center heading and § 62.13108 to read as follows:

Control of Air Emissions of Designated Pollutants From Existing Commercial and Industrial Solid Waste Incineration Units

§ 62.13108 Identification of plan.

(a) The Puerto Rico Environmental Quality Board submitted to the Environmental Protection Agency on May 20, 2003, a ''State Plan'' for implementation and enforcement of 40 CFR part 60, subpart DDDD, Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units. The State Plan includes revisions to Rule 102 and Rule 405 of the Puerto Rico Regulations for the Control of Atmospheric Pollution, entitled, ''Definitions'' and ''Incineration'', respectively. Revised Rules 102 and 405 were adopted on June 4, 2003 and effective on July 4, 2003.

(b) Identification of sources: The plan applies to all applicable existing Commercial and Industrial Solid Waste Incineration Units for which construction commenced on or before November 30, 1999.

[FR Doc. 04–5367 Filed 3–10–04; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–39

[FMR Amendment 2004–1; FMR Case 2003–102–2]

RIN 3090–AH92

Federal Management Regulation; Replacement of Personal Property Pursuant to the Exchange/Sale Authority

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) revised the Federal Property Management Regulations (FPMR) by moving coverage related to the sale of personal property to the Federal Management Regulation (FMR). Because of the transfer of this coverage as well as the codification of Title 40 of the United States Code into positive law, several cross-references are no longer valid in existing FMR parts. This final rule amends the FMR by updating certain cross-references in 41 CFR part 102–39 and providing the new statutory citations to Title 40 of the United States Code.

DATES: Effective Date: March 11, 2004.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 208–7312, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Rick Bender, Office of Governmentwide Policy, Personal Property Management Policy, at (202) 501–3448. Please cite FMR case 2003–102–2, Amendment 2004–1.

SUPPLEMENTARY INFORMATION:

A. Background

GSA is in the process of revising the FPMR and transferring most of the content into a new, streamlined FMR. Several sections in FMR part 102–39 (41 CFR part 102–39) contain references to FPMR sections that no longer exist. This final rule amends the FMR by providing references to existing FMR sections concerning the sale of personal property.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for comment. Therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from Congressional review under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 102–39

Government property management.

Dated: January 23, 2004.

Stephen A. Perry,

Administrator of General Services.

■ For the reasons set forth in the preamble, GSA amends 41 CFR part 102–39 as set forth below:

PART 102–39—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

■ 1. The authority citation for 41 CFR part 102–39 continues to read as follows:

Authority: 40 U.S.C. 503 and 121(c).

§ 102–39.10 [Amended]

■ 2. Amend § 102–39.10 by removing ''101–37'' from the last sentence and adding ''102–33'' in its place.

■ 3. Amend § 102–39.30 by revising the second sentence to read as follows:

§ 102–39.30 When should I not use the exchange/sale authority?

* * * You must either abandon or destroy such property, or declare the property excess, in accordance with part 102–36 of this chapter. * * *

§ 102–39.40 [Amended]

■ 4. Amend § 102–39.40 in the second sentence of paragraph (b) by removing ''§ 101–45.304–12'' and adding ''§ 102–38.125'' in its place.

§ 102–39.45 [Amended]

■ 5. Amend § 102–39.45 in paragraph (i) by removing ''§ 101-37.610'' and adding ''§ 102–33.370'' in its place.

■ 6. Amend § 102–39.65 in the introductory text of paragraph (a) by revising the first sentence; and in paragraph (b) by removing ''§ 101–45.304–2(b)'' and adding §§ 102–38.120 and 102–38.125'' in its place. The revised text reads as follows: