§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Rolls-Royce plc: Docket No. 2001–NE–12–AD.

Applicability: This airworthiness directive (AD) is applicable to Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines with low pressure compressor (LPC) fan blade part numbers: FK 30838, FK30840, FK30842, FW12960, FW12961, FW12962, FW13175, or FW18548. These engines are installed on, but not limited to Boeing 777 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent LPC fan blade loss, which could result in an uncontained engine failure and possible aircraft damage, accomplish the following:

TABLE 1.—INITIAL AND REPETITIVE APPLICATION THRESHOLDS

LPT Fan blade part Nos.	Initial compliance criteria	Repetitive compliance criteria
FK30842, FK30840, and FK30838	Before achieving 600 cycles since installation	Repeat at intervals not exceeding 600 cycles since last compliance.
FW12961, FW12960, FW12962, FW13175, FW18548.	Before achieving 1200 cycles since installation.	Repeat at intervals not exceeding 1200 cycles since last compliance.

(a) Apply an approved dry film lubricant to low pressure compressor (LPC) fan blade roots as specified in Table 1 above. Aircraft Maintenance Manual (AMM) task 72–31–11–300–801–R00 (Repair Scheme FRS A031 by air spray method only) or engine manual 72–31–11–R001 (Repair Scheme FRS A028) contain procedures for renewing the dry film lubricant on the blade roots. For purposes of this AD, approved lubricants are Dow Corning 321R (Rolls-Royce (RR) Omat item 4/52), Rocol Dry Moly Spray (RR Omat item 4/52), Molydag 709 (RR Omat item 444), or PL.237/R1 (RR Omat item 4/43).

Fan Blades Exceeding Initial Application Thresholds

(b) For blades that have, on the effective date of the AD, more cycles since installation than the initial compliance criteria in Table 1 of this AD, inspect blades within 100 cycles in service after the effective date of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(d) Special flight permits may be issued in accordance §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Note 3: The subject of this AD is addressed in Civil Aviation Authority Airworthiness Directive 001–03–2001, dated March 2, 2001.

Issued in Burlington, Massachusetts, on November 30, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–30266 Filed 12–5–01; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[ME065–7014; A–1–FRL–7114–5]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Control of Gasoline Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine on June 7, 2000 and May 29, 2001, establishing a lower Reid Vapor Pressure (RVP) fuel requirement for gasoline distributed in southern Maine which includes York, Cumberland, Sagadahoc, Kennebec, Androscoggin, Knox, and Lincoln Counties. Maine has developed these fuel requirements to reduce emissions of volatile organic compounds (VOC) in accordance with the requirements of the Clean Air Act (CAA). EPA is proposing to approve Maine's fuel requirements into the Maine SIP because EPA has found that the requirements are necessary for southern Maine to achieve the national ambient air quality standard (NAAQS) for ozone. The intended effect of this action is to propose approval of Maine's request to control the RVP of fuel in these seven southern counties. This action is being taken under section 110 of the Clean Air Act.

DATES: Written comments must be received on or before January 7, 2002.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA–New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, (617) 918–1045.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Description of the SIP Revision and EPA's Action

A. What Is the Background for This Action?
B. What is Reid Vapor Pressure?
C. What are the relevant Clean Air Act requirements?
D. How has the State met the Test Under Section 211(c)(4)(C)?
E. What Comments were Previously Submitted on Maine's low-RVP Rule?
F. Why is EPA Taking this Action?

II. Proposed Action

III. What Are the Administrative Requirements?

I. Description of the SIP Revision and EPA's Action

A. What is the Background for this Action?

Under the Clean Air Act Amendments of 1990, southern Maine was divided into three separate ozone nonattainment areas: the Portland area which is comprised of York, Cumberland and Sagadahoc Counties; the Lewiston-Auburn area which is comprised of Androscoggin and Kennebec counties; and the Knox and Lincoln County area. Each of these areas was classified as moderate nonattainment for ozone. The ozone attainment deadline for these areas was initially November 15, 1996. Just downwind from these areas, the largely rural counties of Hancock and Waldo were designated nonattainment for ozone and classified as marginal.

To bring these areas into attainment, the State has adopted and implemented a broad range of ozone control measures including stage II vapor recovery on larger gasoline retail facilities, numerous stationary and area source VOC controls, a vehicle inspection and maintenance (I/M) program, and the California low emission vehicle program. In addition, the State participated in the federal reformulated gasoline (RFG) program in the seven southern counties in Maine from January 1, 1995 until March 10, 1999, when the State's opt-out of the federal RFG became effective. This strategy and other measures resulted in significant air quality improvements in southern Maine.

EPA issued a direct final rule to approve a low RVP control program for the seven southern Maine counties on May 14, 1999 (64 FR 26306), but received adverse comment on that action. As a result, that direct final action was withdrawn on June 28, 1999 (64 FR 24557). Those comments are addressed in this notice for the purpose of developing this proposal.

After EPA withdrew the 1998 direct final approval of the State's low-RVP program, Maine Department of Environmental Protection (DEP) amended its low RVP control program and revised its SIP submittal request. The amendments changed the RVP of a compliant fuel and became effective on June 1, 2000. The rule as amended requires that beginning May 1, 1999 through September 15, 1999, and each May 1 through September 15 thereafter, no gasoline may be sold with an RVP greater than 7.8 psi in the counties of York, Cumberland, Sagadahoc, Kennebec, Androscoggin, Knox, and Lincoln. The State's low-RVP rule is codified in Chapter 119 of the Maine Department of Environmental Protection's regulations, entitled ''Motor Vehicle Fuel Volatility Limit.''

The DEP submitted this amended low-RVP rule to EPA as a revision to the SIP on June 7, 2000. On May 29, 2001, Maine submitted additional technical support for the SIP revision, including materials supporting the State's request to waive Clean Air Act preemption of state fuel controls pursuant to section 211(c)(4) of the Act and a description of its fuel enforcement strategy.

By this low-RVP rule, Maine is ensuring that it replaces much of the VOC benefits that RFG had been required to achieve. These emission reductions were critical to Maine's attainment of the 1-hour ozone standard in several areas.

B. What Is Reid Vapor Pressure?

Reid Vapor Pressure, or RVP, is a measure of a gasoline's volatility at a certain temperature and is a measurement of the rate at which gasoline evaporates and emits VOC; the lower the RVP, the lower the rate of evaporation. The RVP of gasoline can be lowered by reducing the amount of its more volatile components, such as butane. Lowering RVP in the summer months can offset the effect of summer temperature upon the volatility of gasoline, which, in turn, lowers emissions of VOC. Because VOC is a necessary component in the production of ground level ozone in hot summer months, reduction of RVP will help areas achieve the NAAQS for ozone and thereby produce benefits for human health and the environment.

The primary emission reduction benefits from low-RVP gasoline used in motor vehicles comes from reductions in VOC evaporative emissions; exhaust emission reductions are much smaller. Because oxides of nitrogen (NO_X) are a product of combustion from motor vehicles, they will not be found in evaporative emissions, and low-RVP gasoline will have little or no effect on NO_X.

C. What Are the Relevant Clean Air Act Requirements?

In determining the approvability of a SIP revision, EPA must evaluate the proposed revision for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

For SIP revisions approving certain state fuel measures, an additional statutory requirement applies. CAA section 211(c)(4)(A) prohibits state regulations respecting a fuel characteristic or component for which EPA has adopted a control or prohibition under section 211(c)(1), unless the state control is identical to the federal control. Section 211(c)(4)(C) provides an exception to this preemption if EPA approves the state requirements in a SIP. Section 211(c)(4)(C) states that the Administrator may approve an otherwise preempted state fuel standards in a SIP:

> only if [s]he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements. The Administrator may find that a State control or prohibition is necessary to achieve that standard if no other measures that would bring about timely attainment exist, or if other measures exist and are technically possible to implement, but are unreasonable or impracticable.

EPA's August, 1997 ''Guidance on Use of Opt-in to RFG and Low RVP Requirements in Ozone SIPS'' gives further guidance on what EPA is likely to consider in making a finding of necessity. Specifically, the guidance recommends breaking down the necessity demonstration into four steps: identify the quantity of reductions needed to reach attainment; identify other possible control measures and the quantity of reductions each measure would achieve; explain in detail which of those identified control measures are considered unreasonable or impracticable; and show that even with the implementation of all reasonable and practicable measures, that the state would need additional emission reductions for timely attainment, and that the state fuel measure would supply some or all of such additional reductions.

EPA has evaluated the submitted SIP revision and has determined that it is consistent with the requirements of the CAA, EPA regulations, and conforms to EPA's completeness criteria in 40 CFR part 51, Appendix V. Further, EPA has looked at Maine's demonstration that the low-RVP fuel control is necessary in accordance with 211(c)(4)(C) and agrees with the State's conclusion that a fuel measure is needed to achieve the 1-hour ozone NAAQS.

The SIP submittal contains: (1) Chapter 119, Maine Department of Environmental Protection regulations, as amended by the Maine Board of Environmental Protection and effective on June 1, 2000; (2) documentation of

the public notice dated December 4, 1999, and a transcript of the public hearing regarding the amendment of Chapter 119, dated January 6, 2000; (3) evidence of State legal authority; and (4) application for waiver of federal preemption. Information regarding prohibitions on the sale of non-conforming gasoline, test procedures and sampling for the SIP revision can be found in Chapter 119 of the Maine Department of Environmental Protection regulations, and Maine statutes on enforcement and penalties can be found at Title 38 of Maine Revised Statutes Annotated (M.R.S.A.) sections 348 and 349. Based on this and a detailed enforcement strategy in the May 29, 2001 submittal, EPA has concluded that these provisions confer on the State the requisite authority to enforce compliance with the 7.8 psi RVP limit.

D. How Has the State Met the Test Under Section 211(c)(4)(C)?

CAA section 211(c)(4)(A) preempts certain state fuel regulations by prohibiting a state from prescribing or attempting to enforce any control or prohibition respecting any characteristic or component of a fuel or fuel additive for the purposes of motor vehicle emission control if the Administrator has prescribed under section 211(c)(1) a control or prohibition applicable to such characteristic or component of the fuel or fuel additive, unless the state prohibition is identical to the prohibition or control prescribed by the Administrator.

EPA has adopted Federal RVP controls under sections 211(c) and 211(h). See 56 FR 64704 (Dec. 12, 1991). These regulations are found in 40 CFR 80.27. Maine is required under the Federal rule to meet the 9.0 psi RVP standard. See 40 CFR 80.27(a)(2).

A state may prescribe and enforce an otherwise preempted low-RVP requirement only if the EPA approves the control into the state's SIP. In order to approve a preempted state fuel control into a SIP, EPA must find that the state control is necessary to achieve a NAAQS because no other reasonable or practicable measures exist to bring about timely attainment. Thus, to determine whether Maine's low-RVP rule is necessary to meet the ozone NAAQS, EPA must consider whether there are other reasonable and practicable measures available to produce the emission reductions needed to achieve the 1-hour ozone NAAQS.

With the State's decision to opt-out of the federal RFG program, additional VOC reductions are necessary to ensure that the Portland area meets the 1-hour ozone standard. The Portland area has measured air quality in recent years fluctuating between meeting and exceeding the 1-hour standard. Maine has had exceedances of the 1-hour ozone standard in 1999 and 2001—two out of the three years since the State opted out of the federal RFG program. Given this situation, it is clear that the VOC reductions provided by participation of the seven counties of southern Maine in the federal RFG program are critical to the Portland area's achievement of the ozone NAAQS.

For purposes of demonstrating necessity, EPA has used the phase 1 RFG VOC reductions required in the SIP submitted by Maine on July 19, 1995 for its 15 percent rate of progress plan as an estimate of the emission reductions that are necessary for southern Maine to achieve the ozone NAAQS. EPA believes this estimate of necessary reductions is conservative. In its 15-percent rate of progress plan for the Portland area, Maine had estimated that RFG would achieve 6.96 tons of VOC reduction per summer day. This figure was calculated using only vehicle miles traveled in the three-county Portland area. The sale of RFG in the surrounding four counties further benefitted the Portland area due to driving patterns into and around the Portland area and the geographic proximity of these surrounding four counties (Knox, Lincoln, Androscoggin, and Kennebec). These counties are downwind of the Portland area, and had previously participated in the RFG program. While these areas are no longer violating the one-hour ozone NAAQS, they did benefit from the fuel program's reductions. Further, persons traveling from these areas do travel into the Portland area, exacerbating the air quality problem in that area.

With this estimate of the VOC reductions necessary to achieve the ozone NAAQS, the State evaluated an extensive list of non-fuel alternative controls to determine if reasonable and practicable controls could be implemented to provide sufficient VOC reductions in a timely manner. The State analyzed potential control measures by reviewing previously prepared emission inventories to determine if other non-fuel control measures could be adopted and used to replace the VOC reductions that RFG had achieved. The State reviewed all the source categories that comprised the emission inventory, and evaluated control measures on each source category. For a variety of reasons, most control measures were either already implemented, or were found to be unreasonable or impracticable for achieving reductions in a timely manner. (See May 29, 2001 submittal from the State of Maine.)

As one example, the State evaluated the possibility of further controlling gasoline refueling, or stage II, emissions. The State does have a stage II vapor recovery program for larger facilities, but expanding the geographic coverage, and requiring smaller facilities (i.e., gas stations) to comply would yield among the most additional VOC reductions of any control strategy that the State reviewed. The State concluded that a legislative change, as well as a regulatory change, would be necessary to further control emissions from this source category. As a result, such controls could not be adopted and implemented as quickly as the low-RVP fuel control. Further, the actual installation of these controls would take additional time, which would not be reasonable or practicable because the State needed to replace the reductions as soon as possible. For these reasons, the State concluded that further stage II controls were not a practical measure for achieving VOC emission reductions. Other control measures were similarly evaluated, and determined to be either technically impossible or unreasonable and impracticable, or in a longer time frame when the State needed to secure the replacement emission reductions as soon as possible to achieve the NAAQS.

The State's analysis identified several non-fuel alternative controls that could conceivably be implemented by the summer of 2001—the earliest time frame for EPA approval of this low-RVP standard. (See May 29, 2001 State submittal) At best, adoption of all available measures would result in about 0.5 tons per day (tpd) of emission reductions—substantially less than the estimated reductions needed. Thus, even with implementation of all reasonable and practicable non-fuel control measures, additional VOC reductions are necessary. It should be noted that this low-RVP rule has been in effect at the State level since 1999, and the State reports that fuel sold in this area has been complying with this RVP limit.

Maine's low-RVP rule achieves approximately 4.5 tpd of VOC reductions beginning the summer of 1999 (based on vehicle miles traveled in the Portland area). Because low-RVP fuel sales in the four surrounding counties will reduce emissions in the Portland area when drivers from these areas travel into Portland, EPA believes RVP controls in these areas will further benefit the Portland area. EPA believes these emission reductions are necessary to achieve the applicable ozone NAAQS

in southern Maine. EPA is basing today's action on the information available to the Agency at this time, which indicates that adequate reasonable and practicable non-fuel measures are not available to the State that would achieve these needed emission reductions, and protect Maine's air quality in a timely manner. Hence, EPA is finding that the RVP standards are necessary for attainment of the applicable ozone NAAQS, and EPA is proposing to approve them as a revision to the Maine SIP.

E. What Comments Were Previously Submitted on Maine's low-RVP Rule?

On May 14, 1999 (64 FR 26306, 64 FR 26352), EPA published a Direct Final Rulemaking (DFR) and parallel Notice of Proposed Rulemaking (NPRM) proposing approval of a SIP revision for Maine for a low-RVP fuel control program. The NPRM provided the public with the opportunity to comment. On June 11, 1999, the Oxygenated Fuels Association (OFA) provided comment on that rulemaking. In accordance with established Direct Final Rulemaking procedures, EPA withdrew the DFR and would have had to respond to OFA's comments before taking final action on the NPRM.

After EPA withdrew the DFR, however, Maine DEP amended its low-RVP program and submitted a revised SIP revision, which is the basis for today's new proposed rulemaking. While EPA is not taking final action on the 1999 NPRM on which OFA commented, EPA has nevertheless considered the comments raised by OFA in developing this new proposal and has decided to address those points in developing today's proposal. Because EPA's prior withdrawn action is distinct from the action proposed today, parties seeking to participate in this rulemaking for comment and judicial review purposes should submit comments during the comment period on this action.

Comment 1. OFA commented that the State of Maine can not adopt a fuel strategy under section 211(c) because it is not necessary for attainment. Under the Clean Air Act (CAA), EPA can only waive the federal preemption of state fuel programs when the state fuel program is necessary for attainment. The State had already achieved attainment of the 1-hour ozone standard using RFG, and chose to no longer participate in the RFG program. OFA argues the State cannot adopt a new fuel control measure and justify it as necessary for attainment when it is choosing to no longer implement a control measure that helped achieve attainment. OFA also takes issue with the fact that RFG actually sold in Maine achieved more reductions than it was required to, and that we were only requiring Maine to replace the reductions that RFG was required to achieve.

Response 1. The commenter is correct in that EPA believes that RFG contributed to cleaner air in Maine. Maine, however, has decided that RFG is no longer a desirable fuel control for the State and has adopted the low-RVP control measure to replace at least some of the emission reductions provided by RFG. Maine chose to implement RFG, and Federal regulations allowed the State to choose to no longer implement RFG subject to the constraints in the RFG opt-out rule. With RFG no longer viewed as a viable option in the State, due to concerns about MTBE contaminating groundwater, Maine moved forward to replace the fuel measure by achieving the emission reductions it had planned for in its SIP.

It is important to note, however, that EPA required the State to take several steps before allowing the State to ''opt-out'' of the RFG program. Consistent with the RFG opt-out procedures (40 CFR 80.72), the State identified an alternative control measure to make up for planned emission reductions lost from opting-out of RFG, and provided adequate lead time to industry to notify that the State was opting-out of the program. Nevertheless, Maine made a decision fully allowed under the RFG program, and followed the criteria outlined in the rule. The State had relied upon RFG in the Portland area in the plan submitted under section 182(b)(1) of the CAA (*i.e.,* the 15 percent plan). As required by the RFG opt-out rule (40 CFR 80.72(b)(3)), Maine identified the measures with which it intended to replace RFG. Based on that, EPA allowed the RFG opt-out to proceed.

As OFA pointed out, current data suggests that RFG has achieved more clean air benefits than required under the Clean Air Act and the RFG rules. As the commenter correctly pointed out, RFG achieved emission reductions of VOC, air toxics and NO_X well in excess of that required by law. However, the RFG opt-out rule only requires that States move to replace emission reductions that were planned for. In light of the fact that RFG did in fact achieve more emission reductions than required, EPA intends to continue to work with Maine to ensure that Maine's actual air quality is not degraded by the State's choice to opt-out of the RFG program.

The relevant the issue for today's action, however, is whether or not Maine, in fact, needed emission reductions from RFG to attain the 1-hour ozone standard. The fact that RFG was cleaner than required would seem to argue even more strongly that the emission reductions from RFG were necessary to achieve attainment. In fact, as pointed out in the May 14, 1999 **Federal Register** (64 FR 26308), Maine achieved the 1-hour standard by the slimmest of margins. Since then, Maine has fluctuated between meeting and violating the 1-hour ozone standard. Not sustaining those emission reductions will jeopardize Maine's attainment of the 1-hour standard.

Comment 2. OFA commented that this 211(c) waiver was not necessary to meet the 1-hour ozone standard, since EPA had proposed in December, 1998 that the 1-hour standard was achieved in the Portland area, and had previously found that the 1-hour standard had been met in all other parts of the State. OFA further contends that, based on DC court ruling (*ATA* vs. *EPA*—May 14, 1999), that EPA could not justify the need for fuel controls based on the fact that Maine's air quality was violating the new 8-hour ozone NAAQS.

Response 2. On June 9, 1999, EPA determined that the Portland, Maine area had attained the 1-hour ozone standard (64 FR 30911), and revoked the one-hour standard. This determination was based on data collected from 1996–1998. For the time period 1997–1999, however, Maine again violated the one-hour ozone standard. On July 20, 2000 (65 FR 45182), due to uncertainty regarding the implementation of the 8-hour ozone standard, EPA determined that the one-hour standard should apply again in all areas where it was previously revoked, such as Maine. Subsequently, based on data collected in 1998–2000 and 1999–2001, Maine is again measuring air quality which meets the one-hour ozone standard.

Because Maine achieved the 1-hour ozone standards by only the slimmest of margins with reductions achieved though fuel controls, and because Maine continues to monitor exceedances that could be even worse without the current RVP controls, EPA concludes that the VOC reductions provided by the State fuel controls are necessary to achieve the 1-hour ozone NAAQS. In today's action, we are proposing to approve the State's 7.8 psi RVP fuel control program into the SIP to replace much of the emission reductions that RFG was designed to achieve. Failure to do so would jeopardize Maine's ability to achieve the 1-hour standard. EPA is not relying upon a finding that the State's

fuel control is necessary under section 211(c)(4)(C) to achieve the 8-hour ozone NAAQS.

Comment 3. OFA contends that Maine (or EPA) did not identify the level of reductions necessary to achieve attainment of the ozone standard in Maine.

Response 3. EPA, and Maine, identified a conservative amount of reductions that were necessary for Maine to achieve the 1-hour ozone standard. Maine had previously established that, as part of the 15 percent rate of progress plan for the Portland area, RFG had been expected to achieve 6.96 tons of VOC reductions per summer day. As pointed out in our earlier rulemaking (64 FR 26308), EPA had also determined that, with the strategies that Maine had implemented, the 1-hour ozone standard had been achieved by the slimmest of margins. In short, the Portland area needed all of the reductions that had been achieved to secure attainment. As discussed in the previous response, this is further evidenced by the fact that Maine subsequently violated the 1-hour standard after opt-out. Even this past summer, 2001, Maine has recorded 1-hour exceedances. As such, in order to preserve clean air, Maine would need to replace emission reductions from any program implemented and relied upon in the 15 percent rate of progress plan. As stated earlier, because RFG is no longer being implemented, those reductions must be replaced.

OFA made the additional point that the emission reductions from RFG were underestimated for two reasons, and that more than 6.96 tons of VOC reductions per summer day would need to be replaced for the Portland area. First, OFA pointed out that the 6.96 tpd estimate represents only the emission reductions required to be achieved in the Portland area (York, Cumberland, and Sagadahoc Counties) from RFG, and that RFG was also sold in four other counties (Androscoggin, Kennebec, Knox and Lincoln counties). Second, OFA explained that RFG in practice actually achieved more emission reductions than required, and that this should be the clean air target.

EPA agrees with OFA that RFG likely provided more than 6.96 tpd of VOC reductions for the Portland area. As explained above, this further stresses the importance and necessity of Maine replacing this control measure even if the State's 7.8 psi RVP fuel control program does not require the same level of reductions that RFG achieved in practice. Nevertheless, EPA intends to continue to work with Maine to ensure that all of the actual emissions reductions achieved by RFG will be replaced to ensure sustained clean air for Maine's citizens.

Comment 4. OFA argues that this low-RVP fuel control strategy was not the only available control measure to bring about timely attainment. OFA contends that RFG was available, and in fact brought about attainment in Maine and that RFG should have been among the measures that EPA evaluated as a measure which could bring about attainment, since it was technically possible to implement, and was reasonable and practicable. OFA also took issue with Maine's argument that other non-fuel measures were not available to achieve the level of reductions necessary because of the lead time needed to implement those additional programs (such as further Stage 2 vapor recovery). OFA argued that Maine had known since at least 1997 that the State was considering opting-out of the RFG program, and that proper planning would have allowed the State to achieve any requisite emission reductions with other non-fuel control measures.

Response 4. We address this comment in two parts. First is to discuss EPA policy requiring that a State's section 211(c) analysis look at only non-fuel measures to secure the emission reductions necessary for attainment, prior to being allowed to adopt or enforce otherwise preempted fuel controls. The second point will discuss, in this instance, whether or not sufficient non-fuel control measures exist which could eliminate the need for the low-RVP fuel control pursuant to section 211(c)(4)(C).

On the first point, section 211(c)(4)(C) provides that EPA can approve an otherwise preempted state fuel control only if there are no other reasonable or practicable measures available to achieve the NAAQS. EPA interprets the reference to other measures that must be evaluated as generally not encompassing other fuels measures. The Agency believes that the Act does not call for a comparison between state fuels measures to determine which measures are unreasonable or impracticable, but rather section 211(c)(4) is intended to ensure that a state resorts to a fuel measure only if there are no available practicable and reasonable non-fuels measures. This interpretation minimizes the burden on the oil industry of different state fuel measures where non-fuel measures are available, and thereby satisfies one of the underlying purposes of section 211(c)(4). But where the state must turn to a fuel measure, it gives the state flexibility to choose whatever particular fuel measure best suits its needs. Under this interpretation, EPA retains the ability not to approve a state fuel measure that is grossly over-burdensome, however, because the state must show that whatever fuel measure it selects is necessary to achieve needed emissions reductions. Thus, in demonstrating that measures other than requiring 7.8 psi RVP gasoline are unreasonable or impracticable, Maine need not address the reasonableness or practicability of other possible state fuel measures, such as RFG. EPA expects that once States determine that fuel controls are necessary, they will work judiciously with suppliers to find a fuel which balances the environmental need, against the cost to industry and consumers. EPA has articulated this principal in earlier rulemaking actions in St. Louis on July 2, 1997 (62 FR 35756), Phoenix on February 10, 1998 (63 FR 6653), and Pittsburg on June 8, 1998 (63 FR 31116).

With respect to OFA's claim that measures would have been available had Maine properly planned for the possibility that RFG opt-out could be occurring, we believe the history is not so plain. Maine clearly had wrestled with RFG through several legislative sessions. However, each year, the State maintained its commitment to the RFG program. It would have been unreasonable to expect the State to adopt control measures based on the possibility of one day opting-out of the RFG program. It would be even more extreme to suggest that Maine should attempt to secure legislative authority to adopt additional controls measures before a decision was made to opt-out of RFG.

On October 13, 1998, Maine made the formal decision that it no longer felt it could continue to participate in the RFG program. From that point forward, though it was clear that the State preferred to adopt a fuel control measure, it had also looked at an extensive list of non-fuel measures, relying in large part upon the State's detailed analysis prepared in the Spring of 1996 in support of its 15 percent rate of progress plan. Part of the reason the State stayed in the RFG program at that time was that no other reasonable alternatives existed. When Maine reanalyzed the availability of further control measures under this 211(c)(4) waiver request, the State again found that no additional non-fuel measures were available that could provide emission reductions in sufficient quantity in an expeditious fashion. EPA has reached that same conclusion in our independent analysis of the situation (see EPA's Technical Support Document). It would not be reasonable

to expect Maine (or any area) to be adopting control measures to replace the reductions from RFG at the same time the State was defending the program. Instead, we reviewed the availability of control measures to secure the needed reductions today.

Comment 5. Maine did not demonstrate that low RVP gasoline standards are necessary to attain a national ambient air quality standard (NAAQS), and maintenance is not a statutory basis for a waiver.

Response 5. EPA believes, as discussed elsewhere in this notice, that the emission reductions from a fuels control program (i.e., RFG, or this low RVP fuel) are necessary for Maine to achieve the 1-hour ozone NAAQS. As stated in response 3, Maine has had recent exceedances of the 1-hour ozone NAAQS, and they clearly need all of the emission reductions they have achieved through this control program. The Portland area remains designated nonattainment for ozone, and these emission reductions are necessary.

F. Why Is EPA Taking This Action?

EPA is proposing to approve a SIP revision at the request of the Maine DEP. This rule has been adopted at the State level since the summer of 1999. However, to ensure that it secures the needed approval under section 211(c)(4)(C) of the Clean Air Act, Maine submitted this action for EPA approval, to make it part of the SIP.

II. Proposed Action

EPA is proposing to approve a SIP revision submitted by the State of Maine on June 7, 2000 and May 29, 2001, establishing a 7.8 psi RVP fuel requirement for gasoline distributed in southern Maine which includes York, Cumberland, Sagadahoc, Kennebec, Androscoggin, Knox, and Lincoln Counties. This revision will propose to approve into the SIP Maine DEP's Chapter 119, entitled ''Motor Vehicle Fuel Volatility Limit'' as amended on June 1, 2000. Maine has developed these fuel requirements to reduce emissions of volatile organic compounds (VOC) in accordance with the requirements of the Clean Air Act (CAA). EPA is proposing to approve Maine's fuel requirements into the SIP because EPA has found that the requirements are necessary for southern Maine to achieve the national ambient air quality standard for ozone.

III. What Are the Administrative Requirements?

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 proposes to approve a 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 would approve 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 (Public Law 104–4). This rule also does 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), nor will 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), because it 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 Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 SIP 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 SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. 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.*)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 26, 2001.

Robert W. Varney,

Regional Administrator, EPA—New England.

[FR Doc. 01–30271 Filed 12–5–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Part 235

[DFARS Case 2001–D002]

Defense Federal Acquisition Regulation Supplement; Research and Development Streamlined Contracting Procedures

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to eliminate the requirement for posting of solicitations at the research and development streamlined solicitation website. Instead, each contracting activity will use its own procedures for electronic posting of research and development streamlined solicitations. Contracting activities will continue to make synopses and solicitations available through the Governmentwide point of entry (FedBizOpps).

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before February 4, 2002, to be considered in the formation of the final rule.