

rescission will cause an increase in air pollution in the BR area.

Comment #5: LEAN commented that the LDEQ's incorrect representations to EPA have resulted in a rescission that will lead to the generation of emission credits from NO_x reductions that could be used to avoid NNSR for VOCs and to offset VOC increases.

Response to Comment #5: The EPA disagrees with the commenter's characterization of the impact of the rescission of the NO_x exemptions and Louisiana's offsets procedures. Our basis for this action is governed by section 182(f) and 182(b)(1) of the Act and is independent of any permitting procedures.

As stated in our response to comment #3 of this document, a major stationary source in the BR ozone nonattainment area now will need to comply with the new offset ratios (1.4 to 1 or 1.2 to 1) as a part of the NNSR procedures. See Table 1, section III in 67 FR 61260 (September 30, 2002). The offset ratios are greater than 1 to 1 and therefore will mean additional reductions in air emissions. In response to a similar comment EPA received during its rulemaking on Louisiana's revised NNSR regulations, EPA noted:

Under the CAA and the revised Louisiana rule, however, emissions offsets do not serve to allow a facility to avoid new source review. Instead, a facility that will exceed the emission thresholds in the relevant attainment category (see Table 1) must obtain offsets as a condition of receiving a new source review permit. The generation and use of such emissions credits must be consistent with the definition of "Surplus Emission Reductions" in LAC 33:III.605. The LDEQ's nonattainment NSR procedures also require that emission reductions claimed as offset credit shall be sufficient to ensure "Reasonable Further Progress" toward attainment, that emission offsets provide a net air quality benefit, and that the offsets must be federally enforceable, before commencement of construction of the proposed new source or major modification. Offsets thus are a vital part of the mechanism that ensures that new projects and modifications will not harm the attainment status of the area in question. The effect of each of the above scenarios would be a reduction in overall emissions for the Baton Rouge area, because the new sources would have to seek minimum offsets in excess of what the new source is expected to release as emissions. Finally, the commenter may have intended, with the reference to offsets used to avoid NSR, to refer to the "netting" analysis conducted under part 504(A)(4) of the proposed rule. In this analysis, the net emissions increase from the construction of a new major stationary source or any major modification at a stationary source is compared to the values in Table 1 [of 67 FR 61260] to determine whether a new source review must be performed. The inter-

precursor trading provision of the revised rule, however, applies only to the use of emission offsets, not to the netting analysis. See LAC 33:III.504.G. (definition of major modification, providing that "VOC and NO_x emissions shall not be aggregated for the purpose of determining significant net emissions increase."). LDEQ has confirmed to the EPA that this interpretation of the rule is correct. Accordingly, the potential harm the commenter cites —i.e., the use of NO_x emission reductions to avoid new source review for new VOC emissions cannot occur as a result of the revised rule.

67 FR 61260 at 61264 (September 30, 2002).

Furthermore, EPA has stated on several occasions that any emission reduction credits in Louisiana will have to be permanent, actual, surplus, quantifiable, and federally enforceable at the time of use as offsets. See 67 FR 60877 (September 27, 2002), 67 FR 60871 (September 27, 2002), and 67 FR 61260 (September 30, 2002). For the above reasons, EPA disagrees with the commenter's characterization of the impact of this final action.

Comment #6: LEAN commented that the LDEQ's intention is to allow facilities to avoid reductions in VOCs to the detriment of the health and welfare of residents of the BR area.

Response to Comment #6: We disagree with the commenter. The EPA believes the revised NNSR rule will improve air quality for all residents of the BR area. We refer the commenter to our responses to comments #3 and #4 of this document with regard to our position on the NO_x exemptions and related modeling issues. Our final action to rescind the NO_x exemptions is made pursuant to section 182(f) and 182(b)(1) of the Act. The commenter fails to provide any specific data to substantiate the comment concerning the health and welfare of residents of the BR area as a result of EPA's actions regarding the NO_x exemptions. Furthermore, the State has adopted and is implementing NO_x control measures not previously in the Louisiana's SIP. See 67 FR 60877 (September 27, 2002) for more information. We believe that implementation of these new NO_x control measures will strengthen Louisiana SIP, provide for additional safeguards to the health and welfare of residents of the affected parishes, and contribute to bringing the BR area into attainment with the ozone NAAQS.

Comment #7: LEAN commented that many or most of the facilities that benefitted from the NO_x exemptions are located in lower income communities with minority populations greater than the national average and that many of the residents live near the fence line of facilities or surrounded by multiple

major polluters. The commenter contends that increased VOC emissions resulting from emission trading within the nonattainment area will result in environmental injustice and disparate impacts.

Response to Comment #7: The EPA disagrees that this action will result in environmental injustice or disparate impacts. We continue to encourage and support fact-finding efforts that involve local communities and the State of Louisiana. The EPA is committed to the principles of environmental justice to ensure that all Americans have equal access to the decision making process. We believe that the public process for the 1996 NO_x exemption document provided everyone the opportunity for meaningful involvement and met all of the legal requirements of section 110(a) of the Act and 40 CFR part 51. We believe the recent revisions to the SIP will improve air quality for all of the BR area.

We do not agree that the use of Inter-pollutant Trading (IPT) will overburden minority communities in the area. Louisiana's recent SIP revisions change only specific portions of the LDEQ regulations. The regulations found at LAC 33:III.504 continue to require that emission offsets provide a net air quality benefit, and that the offsets must be federally enforceable before commencement of construction of the proposed new source or major modification. The emission offsets must meet all applicable state requirements, any applicable New Source Performance Standard in 40 CFR part 60, and any National Emission Standard for Hazardous Air Pollutants (NESHAPs) in 40 CFR part 61 or part 63. Furthermore, LAC 33:III, Chapter 51 (Comprehensive Toxic Air Pollutant Emission Control Program) established ambient toxic air standards. Toxic Air Pollutants (TAPs) are a group of state-regulated chemicals consisting mainly of VOCs. The majority of TAPs are also Hazardous Air Pollutants (HAPs). Major sources of TAPs are regulated under LAC 33:III, Chapter 51, Louisiana's comprehensive toxic air pollutant emission control program. TAPs are categorized into three groups (Class I, II, or III) based on their relative toxicities. If emissions of a Class I or II TAP increase by an amount greater than its minimum emission rate, a *de minimis* level established for each TAP in LAC 33:III.5112, sources of such compounds must be controlled by means of Maximum Achievable Control Technology (MACT). Furthermore, the impact of all TAP emissions must be below their respective health-based ambient air standards, which are also