House of Representatives, and the Comptroller General of the United States before 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2002. 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 52

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

Dated: September 20, 2002.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart T—Louisiana

2. In § 52.970 the table in paragraph (c) is amended under chapter 6 by removing the entries for sections 621, 623, and 625 and revising the entries for sections 601, 603, 605, 607, 613, 615, 617, and 619 to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA approval date	Comments
*	*	*	*	*
	Chapter 6—Regulations on Control of Emissions Reduction Credits Banking			
Section 601.	Purpose	Feb. 2002, LR 28:301	September 27, 2002 and FR cite.	
Section 603.	Applicability	Feb. 2002, LR 28:301	September 27, 2002 and FR cite.	
Section 605.	Definitions	Feb. 2002, LR 28:301	September 27, 2002 and FR cite.	
Section 607.	Determination of Creditable Emission Reductions	Feb. 2002, LR 28:302	September 27, 2002 and FR cite.	
Section 613.	ERC Bank Recordkeeping and Reporting Requirements.	Feb. 2002, LR 28:303	September 27, 2002 and FR cite.	
Section 615.	Schedule for Submitting Applications	Feb. 2002, LR 28:304	September 27, 2002 and FR cite.	
Section 617.	Procedures for Review and Approval of ERCs	Feb. 2002, LR 28:304	September 27, 2002 and FR cite.	
Section 619.	Emission Reduction Credit Bank	Feb. 2002, LR 28:305	September 27, 2002 and FR cite.	
*	*	*	*	*

[FR Doc. 02–24638 Filed 9–26–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–62–1–7571; FRL–7384–5]

Approval and Promulgation of Implementation Plans; Louisiana; Control of Emissions of Nitrogen Oxides in the Baton Rouge Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving revisions to the Louisiana State Implementation Plan (SIP). This rulemaking covers two separate actions. First, we are approving revisions to the Louisiana Nitrogen Oxides (NO_X) rules in the Baton Rouge (BR) 1-hour ozone nonattainment area (BR area) and its Region of Influence as submitted to us by the State on February 27, 2002 (the February 27, 2002, SIP revision). In this document, we will refer to this revision as Action Number 1. The revisions concern Reasonably Available Control Technology (RACT) for point sources of NO_X in the BR area and its Region of Influence. Second, we are approving revisions to the Louisiana NO_X rules for lean burn engines within the BR ozone nonattainment area as submitted to us on July 25, 2002 (the July 25, 2002, SIP revision). In this document, we will refer to this revision as Action Number 2. The February 27, and July 25, 2002, SIP revisions will contribute to attainment of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) in the BR area. The EPA is finalizing approval of these 2 SIP revisions to regulate emissions of NO_X as meeting the requirements of the Federal Clean Air Act (the Act).

The EPA is making these 2 SIP revisions effective immediately. *See* section 2 of this document for more information.

DATES: This rule will be effective on September 27, 2002.

ADDRESSES: Copies of the Technical Support Document (TSD) and other documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the

appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality (LDEQ), 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana, 70810.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–6691, and *Shar.Alan@epa.gov.*

SUPPLEMENTARY INFORMATION:

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1. What Actions are we Taking in This Document?

On July 23, 2002, we proposed to approve the Louisiana's rule revisions to LAC 33:III, Chapter 22, ''Control of Emissions of Nitrogen Oxides,'' (AQ215), as a revision to the Louisiana SIP for point sources of NO_X in the BR area and its Region of Influence. *See* 67 FR 48095.

The BR area constitutes the 5 ozone nonattainment parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. The Region of Influence constitutes the 4 ozone attainment parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana. This SIP revision establishes RACT for point sources of NO_X in all these 9 parishes. RACT is defined as the lowest emission limitation that a particular source can meet by applying a control technique that is reasonably available considering technological and economic feasibility. *See* 44 FR 53761, September 17, 1979. The State of Louisiana submitted this revision to us as a part of the NO_X reductions needed for the BR area to attain the 1-hour ozone standard. These NO_X reductions will assist the BR area to attain the 1-hour ozone standard.

Today, we are finalizing our approval of Action Number 1.

Action Number 2 concerns RACT for lean burn engines in 5 ozone nonattainment parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. *See* above for definition of RACT. On July 31, 2002, we proposed to approve Louisiana's rule revisions to LAC 33:III, Chapter 22, ''Control of Emissions of Nitrogen Oxides,'' (AQ224), as a revision to the Louisiana SIP for lean burn engines within the BR ozone nonattainment area. *See* 67 FR 49647. These revisions would require lean burn engines to adopt RACT to assist the 5 nonattainment parishes to achieve the 1-hour ozone standard. *See* 67 FR 49647. We used a procedure known as ''parallel processing'' in proposing to approve these revisions. *See* 40 CFR part 51, Appendix V for more information on ''parallel processing.'' Briefly, parallel processing allows a State to submit a SIP revision prior to actual adoption by the State and provides an opportunity for the State to consider EPA comments prior to submission of a final SIP revision for final EPA review and action.

Today, we are finalizing our approval of Action Number 2.

By finalizing our approval of Action Numbers 1 and 2, we are agreeing that the State of Louisiana will be implementing RACT for major point sources of NO_X in the BR area and its Region of Influence. Our TSD contains more information concerning Action Numbers 1 and 2, including technical justification for our action. For additional information concerning NO_X, nonattainment areas, SIPs, federal approval of a SIP, and RACT you can refer to either 67 FR 48095 (July 23, 2002), or 67 FR 49647 (July 31, 2002).

2. Why are we Making This Action Effective Immediately?

Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. The EPA is making this action effective immediately because this rule is related to the Baton Rouge 1-hour ozone Attainment Plan and Transport State Implementation Plan, on which the EPA intends to take imminent action (see 67 FR 50391, August 2, 2002). In conjunction with its August 2, 2002, proposed approval of the attainment demonstration, EPA proposed to extend the ozone attainment date for the BR area to November 15, 2005, while retaining the area's current classification as a serious ozone nonattainment area and to withdraw EPA's June 24, 2002, rulemaking determining nonattainment and reclassification of the BR area (67 FR 42687). The effective date of EPA's June 24, 2002, nonattainment determination and reclassification is imminent. Furthermore, making this action effective immediately does not impose any additional requirements, because the underlying regulations are already effective under State law.

3. When did the Public Comment Periods for our Proposals Expire?

The public comment period for Action Number 1 (67 FR 48095) expired on August 24, 2002.

The public comment period for Action Number 2 (67 FR 49647) expired on September 1, 2002.

4. Who submitted comments to us?

We received written comments from the Baton Rouge Clean Air Coalition (BRCAC), M. D. Mc Daniel and Associates (MDA) on behalf of the Baton Rouge Ozone Task Force, Louisiana Chemical Association (LCA), Louisiana Mid-Continent Oil and Gas Association (LAMOGA), Louisiana Generating, LLC (LG), LDEQ, NRG Energy, Inc. (NRG), and Tulane Environmental Law Clinic (TELC) on behalf of the Louisiana Environmental Action Network (LEAN) concerning Action Number 1.

We received written comments from LDEQ, LAMOGA and TELC concerning Action Number 2.

5. How do we Respond to the Submitted Written Comments?

Our response to written comments concerning Action Number 1 (67 FR 48095) are as follows:

Comment #1: The BRCAC, MDA, LCA, LAMOGA, LDEQ, and LG expressed their support for our July 23, 2002 proposal (67 FR 48095).

Response to comment #1: We appreciate the commenters' support of our July 23, 2002 proposal (67 FR 48095) and have considered these comments in making our final determination.

Comment #2: The LDEQ commented on spelling of the East Feliciana and West Feliciana parishes in section 15 of our July 23, 2002 proposal (67 FR 48095).

Response to comment #2: We appreciate the comment and have corrected the typographical error in spelling of these two parishes.

Comment #3: The NRG commented that the definition of ''averaging capacity'' in subsection B, Chapter 22 uses the actual heat input from two prior ozone seasons and thus is limiting in nature. The Commenter proposes language for the definition that includes the term ''other acceptable periods'' instead.

Response to comment #3: Subsection B, Chapter 22 defines the averaging capacity as ''the average actual heat input rate in MMBtu/hour at which an affected point source operated during the ozone season of the two calendar years of 2000 and 2001 (*e.g.*, total heat input for the period divided by the actual hours of operation for the same period).'' The provision goes on to provide, ''Another period may be used to calculate the averaging capacity if approved by the department. For units with permit revisions that legally curtailed capacity or that were permanently shut down after 1997, the averaging capacity is the average actual heat input during the last two ozone seasons of operation before the curtailment or shutdown.'' The rationale for specifically stating the two calendar years of 2000 and 2001 in definition of ''averaging capacity'' is to ensure consistency and replicability of Chapter 22 with the photochemical grid modeling inputs used for the BR area attainment demonstration. The term ''acceptable periods'' as suggested by the commenter could introduce confusion or ambiguity for compliance determination purposes, as well. The current definition in Chapter 22, as stated above, does provide for a source to use alternative periods pending approval by the LDEQ. Therefore, we believe that the definition, as adopted by the State, offers a harmonized blend of flexibility, consistency, and specificity and are approving the rule without any changes to subsection B.

Comment #4: The NRG commented that use of averaging capacity in subsections D.3 and D.4 of Chapter 22 essentially precludes operation of a facility at its maximum capacity if the owner elects to use a ton per day or pound per hour emission cap.

Response to comment #4: As stated previously, the rationale for specifically stating the two calendar years of 2000 and 2001 in the definition of ''averaging capacity'' is to ensure consistency and replicability of Chapter 22 with the photochemical grid modeling inputs used for the BR area attainment demonstration. Subsections D.3 and D.4 allow for a 30-day rolling average as the basis for calculating mass of NO_X emitted per unit of heat input (lb NO_X/MM Btu). The 30-day rolling average window is long enough and flexible enough to allow for potential fluctuations associated with the demand for electricity. The cap, as calculated by Equation D–1 of Chapter 22, is offered as an alternative and provides additional flexibility. If a source operated at or near its maximum capacity during the two calendar years of 2000 and 2001, then the source would be assigned a ton per day or pound per hour emission cap for NO_X that is representative of its historical operations. In response to a similar comment, the State wrote and we agree,

''the rule limits an individual unit to its historical averaging capacity as determined by the operation in the ozone seasons of 2000 and 2001. The owner can also request DEQ approval for a different historical period if he knows that the 2000–2001 period is not representative of typical operation. The rule was written this way because the actual, rather than permitted, 1997 emissions were used to establish the base case for the model. The 1997 actuals were projected to the baseline for 2005. The NO_X control rule was designed to reduce the baseline emissions to the point that attainment with the standard was attained. If permitted emissions had been used to establish the baseline, more stringent controls would have been required to reach attainment. If an owner decides to group several sources under an emission cap, he would determine his cap by adding up all of the allowed emissions of the capped sources and then operate so as not to exceed the cap. In so doing, he is free to operate any unit or units in the cap at a rate(s) that is above the averaging capacity as long as the cap is not exceeded. This gives an owner a lot of flexibility to optimize his operation to his best interests.''

We do not believe that an electrical power generator would want to bear the risk of having to adopt more stringent control measures or to operate under a year-round (as opposed to a seasonal) NO_X control strategy for the sake of a higher cap limit that is not historically representative of its recent operations. Thus, we are approving the rule without any changes to subsections D.3 and D.4.

Comment #5: The NRG commented that compliance with the emission limits for all sources associated with the generation of electric power should be on a 30-day rolling average basis.

Response to comment #5: We disagree with the commenter. We agree with the State's response to a similar comment. In response to comments during the State rulemaking, LDEQ stated:

''the basis for the Baton Rouge area is the one-hour ozone standard that requires compliance in each and every hour of the day. Typically, non-electric facilities operate at a steady rate with steady NO_X emissions and the averaging time is not very significant. However, the nature of an electric utility is to raise and lower rates as load demands vary. There is typically a very large variation in day-to-day electricity demand as weather fronts, rain and other conditions change to affect atmospheric temperatures. This causes large changes in NO_X emissions. The DEQ believes that a tighter control on electric utilities is necessary to prevent exceedances of the standard from occurring.''

In other words, allowing a 30-day rolling average for electric utility boilers could result in exceedances of the one-hour standard due to varying NO_X emissions caused by load variations.

Comment #6: The NRG presents a hypothetical example that should a generating unit experience an unexpected shutdown the demand for electricity must be met by other generators and the averaging capacity in section E.1.d is restrictive. The commenter then suggests that throughout Chapter 22, the term ''averaging capacity'' for sources associated with the electrical power generation should be replaced with ''maximum rated capacity.''

Response to comment #6: We disagree. There are multiple layers of operational flexibility embedded in the Chapter 22 rule. First, Chapter 22 allows for seasonal NO_X control (May 1 to September 30 of each year as opposed to a year-round) measures. *See* subsection A.2. The seasonal control measure by itself offers a significant degree of latitude to an affected source. Replacing the averaging capacity with maximum rated capacity as suggested by the commenter would create an artificially higher cap limit for these sources which is unrepresentative of their recent historical operations, and in turn the attainment demonstration strategy could call for implementation of more stringent control measures for the BR area. Second, Chapter 22 allows for use of the peaking services option. For the definition and emission factors of ''peaking service,'' see subsection B in Chapter 22, and Table I of this document, respectively. Third, Chapter 22 allows for the facility-wide averaging plan as an alternative method of compliance. Subsection E.1.b(i) offers a 30-day rolling average limit for each individual unit that fires gaseous or liquid fuels and chooses to participate in the facility-wide averaging plan. Subsection E.1.c(i) offers a 30-day rolling average limit for each individual unit, including those in a coal-fired electrical power generation system, that chooses to participate in the facility-wide averaging plan. We believe that routine maintenance, generators' know how/training, good housekeeping measures, and preventive practices should be the determining factors in minimizing or eliminating occurrences

of unexpected shutdowns rather than the Chapter 22 rule. We thus disagree with the commenter in this regard.

Comment #7: The NRG commented that limiting usage of secondary fuels to the average usage of secondary fuel in 2000 and 2001 is restrictive and unnecessary.

Response to comment #7: We disagree. The Chapter 22 rule actually benefits the source by avoiding year-round NO_X control requirements. See subsection A.2 of the Chapter 22 rule. The Chapter 22 rule is not overly restrictive, as it provides for an alternative method of compliance with the NO_X emission factors. Subsection D.2 allows the followings options for a source which is capable of firing more than one type of fuel (primary and back-up fuel(s)):

Subsection D.2.a states ''if a combination of fuels is used normally, the emission factor from Paragraph D.1 of this Section shall be adjusted by the weighted average heat input of the fuels based on the ozone season average usage in 2000 and 2001, or another period if approved by the department,''

Subsection D.2.b states ''if the boiler is normally fired with a primary fuel and a secondary fuel is available for back-up, the unit shall comply with the emission factor for the primary fuel while firing the primary fuel and with the emission factor for the secondary fuel while firing the secondary fuel. In addition, the usage of the secondary fuel shall be limited to the ozone season average usage of the secondary fuel in 2000 and 2001, or another period if approved by the department,'' and

Subsection D.2.c states ''if the secondary fuel is less than 10 percent of the weighted average, the owner or operator may choose to comply with the unadjusted limit for the primary fuel.''

As stated previously, the rationale for specifically stating the two calendar years of 2000 and 2001 in Chapter 22 is to ensure consistency and replicability in the photochemical grid modeling inputs used for the BR area attainment demonstration. Having enforceable limits for the secondary fuel usage, and adhering to a historically representative quantity of fuel usage would benefit the source by not having to adopt year-round and more stringent controls in order for the BR area to reach attainment. Therefore, we find that limiting usage of secondary fuels to the average usage of secondary fuel in 2000 and 2001 is neither restrictive nor unnecessary and thus disagree with the commenter in this regard.

Comment #8: The NRG commented that precluding the 30-day averaging of emissions could subject the state to regulatory takings claim.

Response to comment #8: The EPA's role in reviewing SIP submittals is to evaluate whether state choices meet the criteria of the Act. Federal inquiry into the economic reasonableness and other constitutionally protected rights of state action is not allowed under the Act (*see, Union Electric Co.,* v. *EPA,* 427 U.S. 246, 255–266 (1976); 42 U.S.C. 7410(a)(2)) other than for purposes of evaluating the reasonableness and availability of alternatives for purposes of a waiver of Federal preemption. The State has submitted information indicating that the administrative requirements of Louisiana law have been met. The EPA believes this rule can be approved pursuant to the Act based on our review of the LDEQ's responses to comments, taken together with the rest of the information in the administrative record for the SIP. We thus disagree with the commenter in this regard. In approving LDEQ's adopted NO_X rules, we also note the following: (a) The Chapter 22 rule calls for seasonal NO_X control (May 1 to September 30 of each year) measures. *See* subsection A.2 of the rule, and (b) the seasonal NO_X control measure by itself offers a significant degree of flexibility and latitude to an affected source.

Comment #9: The TELC requested an extension of 30 days to the public comment period.

Response to comment #9: The EPA is under no obligation to extend the comment period or to accept late comments. We decided to accept comments which were received by our office by close-of-business on August 26, 2002. This time frame corresponds to the estimated travel time for first class mail for a letter mailed and postmarked on the last day of the comment period, August 22, 2002.

Comment #10: The TELC commented that exemption of flares, incinerators, kilns and ovens in subsection B is a nonexisting section.

Response to comment #10: Chapter 22 is titled as ''Control of Emissions of Nitrogen Oxides (NO_X).'' Section 2201 is titled ''Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence.'' Subsection B addresses the applicable definitions, and subsection C includes the exemptions. Therefore, the reference to subsection B, in the text of subsection C.7 of the rule, is valid and will remain unchanged.

Comment #11: The TELC has concerns with the emission reductions generated by facilities which are required to comply with the NO_X RACT requirements in Louisiana's revised NO_X rule. The commenter is concerned that facilities which elect to implement RACT before the compliance date required by the rule, May 1, 2005, could be considered to be doing so voluntarily. And as voluntary reductions, i.e., not required by federal or state law, these NO_X reductions could be deemed surplus, and therefore, eligible for use as emission offsets, including offsets of Volatile Organic Compounds (VOCs).

Response to comment #11: The EPA disagrees with the commenter's interpretation that facilities which elect to implement RACT before the compliance date required by the rule, May 1, 2005, would generate reductions eligible for use as emission offsets.

The revised NO_X rule requires certain affected categories of NO_X-generating facilities to achieve RACT ''as expeditiously as possible, but no later than May 1, 2005.'' This date takes into consideration time affected categories of NO_X-generating facilities may need to procure, calibrate and implement RACT. LDEQ has noted, and EPA agrees, that the May 1, 2005 date is reasonable because in the three years from the promulgation to compliance, owners and operators will have to put together design and engineering packages, procure control equipment, complete construction, shakedown and debug new equipment, and bring the NO_X control equipment into normal operation. In many instances these activities will have to be coordinated with scheduled outages, which may also impact implementation schedules. Furthermore, during this same period, facilities in neighboring states will be attempting to accomplish these same activities, which could cause delays due to competition and overloading at engineering offices and equipment vendors' fabrication shops.

Section 173(c)(2) of the Act states that reductions otherwise required by the Act are not creditable as offsets. Louisiana has promulgated revisions to the Louisiana Administrative Code (LAC) at Part III, Section 504, which contains the rules for nonattainment New Source Review (NSR) procedures that apply to the Baton Rouge area. The NSR revisions include increases to the minimum offset ratios for new major stationary sources and major modifications to major stationary sources in the Baton Rouge area. The revisions also add minimum offset ratios for NO_X. The EPA proposed approval of Louisiana's revised NSR rules on July 23, 2002. (67 FR 48090). For additional information regarding NSR and offsets, see LAC III:33, Chapter

5, and the separate EPA rulemaking to be issued regarding that Chapter.

Although the NO_X rule permits affected categories of NO_X–generating facilities to achieve compliance with NO_X RACT no later than May 1, 2005, the rule became effective when promulgated on February 20, 2002 (Louisiana Register, Vol. 28, No. 2). Therefore, facilities achieving NO_X RACT compliance before May 1, 2005, are creating emission reductions as required by law. Such facilities will not obtain Emissions Reduction Credits (ERCs) and cannot offset VOC emissions by early RACT implementation. Furthermore, emissions decreased by a voluntary action must be permanent in order to meet the surplus ERC criteria. Because the rule provides for compliance no later than May 1, 2005, reductions made before that date could not be considered permanent, and therefore could not be surplus.

For the above reasons, the comment does not indicate that any change to the rule is required.

Comment #12: The TELC charges that LDEQ has taken inconsistent positions regarding modeling and the effects of NO_X reduction on attainment of the ozone NAAQS. The commenter points out that on January 26, 1996 (61 FR 2438), EPA granted an exemption from the RACT and NSR requirements for major stationary sources of NO_X, pursuant to section 182(f) of the Act. This exemption was based on modeling submitted by LDEQ in a 1994 petition that demonstrated that additional NO_X emission controls within the Baton Rouge area will not contribute to attainment of the ozone NAAQS for the area. On May 7, 2002 (67 FR 30638), EPA rescinded that exemption based on more recent modeling conducted for the Baton Rouge area, submitted by LDEQ September 24, 2001, that indicates that control of NO_X sources will help the area attain the ozone NAAQS. According to the commenter, this change in approach to NO_X regulation has the effect of creating ''loopholes in the law.''

Response to comment #12: The ''loopholes'' that the commenter complains of are addressed in comment and response 11, above. This response addresses only the commenter's apparent assertion that Louisiana's scientific approach to NO_X regulation is unfounded. The EPA disagrees with this argument. In granting the NO_X exemptions January 26, 1996 (61 FR 2438), EPA reserved the right to reverse the approval of the exemptions if subsequent modeling data demonstrated an ozone attainment benefit from NO_X emission controls. Photochemical grid modeling recently conducted for the Baton Rouge area SIP indicates control of NO_X sources will help the area attain the ozone NAAQS. The State of Louisiana therefore requested that EPA rescind the NO_X exemption based on this new modeling on September 24, 2001. In our proposed approval of the rescission of the NO_X waiver May 7, 2002, (67 FR 30638), we stated that we believed that the State had adequately demonstrated that additional NO_X reductions would contribute to attainment of ozone NAAQS. The State of Louisiana is not the only state that has requested that EPA rescind its NO_X waiver based on updated photochemical grid modeling information. Seven years elapsed between the LDEQ's previous modeling demonstration that additional NO_X reductions would not contribute to area's attainment, and the most recent modeling events demonstrating the Baton Rouge area to be NO_X limited. Pollution control technology, including air modeling, is a dynamic and evolving field. The model used by LDEQ to support its request for approval of the NO_X waiver was Urban Airshed Model (UAM) IV, which is an EPA-approved photochemical grid model. The model used by LDEQ to support its request for rescission of the NO_X waiver was UAM V. This represents a significant refinement in modeling technology. Additionally, emission inventory tools have been improved during this seven year period from when the State initially requested the NO_X waiver.

Comment #13: The TELC comments that the public has not been provided with the copy of the Governor's April 8, 2002, letter to EPA.

Response to comment #13: We disagree. In section 1 of our July 31, 2002 proposal (67 FR 49647), we specifically stated, ''on April 8, 2002, the Governor of Louisiana submitted a letter to us requesting that we propose approval of their rule revision concerning RACT for lean burn engines through parallel processing. *See* 40 CFR Part 51, Appendix V for more information on parallel processing.'' In addition, under the **ADDRESSES** portion of our July 31, 2002 proposal (67 FR 49647), we stated that: ''copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.'' The July 31, 2002, proposal (67 FR 49647) further lists both the LDEQ's and EPA's addresses at which the commenter could obtain or view the submittal package, including the April 8, 2002, letter from the Governor of Louisiana to EPA. The LDEQ noticed the rule in the March 20, 2002, issue of the Louisiana Register, and held a public hearing on April 24, 2002. Based on the foregoing information, we believe that the April 8, 2002, letter from the Governor of Louisiana to EPA and supporting documents contained in the State's submittal have been made available in the docket to the public, and therefore disagree with the commenter in this regard.

Comment #14: The TELC commented that the May 3, 2002, letter from Mr. Dale Givens of LDEQ to EPA was not made available to the public during the rulemaking and thus is a violation of due process.

Response to comment #14: We disagree. The May 3, 2002, letter from Mr. Dale Givens to EPA was made available as a part of the docket. *See* section 9 of our July 23, 2002, publication (67 FR 48095), and section 3 of the July 31, 2002, publication (67 FR 49647) in the **Federal Register**, respectively. For the reasons noted in Response #13 above, we believe that ample opportunity was provided to the public to review and comment on the documents supporting this rulemaking.

Comment #15: The TELC commented that removal of provisions (a) through (c) in subsection E.2 of Chapter 22 will mean removal of accountability/compliance requirements for facilities' trading plans.

Response to comment #15: The NO_X RACT rules EPA is approving today do not contain offsetting requirements for new facilities or major modifications in attainment parishes. Thus, EPA does not find any basis in this comment to withhold full approval of Action Numbers 1 and 2. The EPA proposed to approve revisions to the Louisiana emission reduction credit (ERC) banking program (67 FR 48083, July 23, 2002). The rule was promulgated by the State at LAC 33:III, Chapter 6 (Regulations on Control of Emissions Through the Use of Emission Reduction Credit Banking), as published in the Louisiana Register on February 20, 2002. Additional information on the ERC banking program is available in our rulemaking regarding that action. The ERC banking regulation establishes a means of enabling stationary sources to identify and preserve or acquire emission reductions for NSR emission offsets.

Provisions (a) through (c) in subsection E.2 of Chapter 22 outline the information that a facility would include in its trading plan. There are several provisions and safeguards in place elsewhere in Chapters 22 and 6

that provide for compliance and accountability of the rule. For example, provisions (a) through (g) in subsection F.7, Chapter 22 detail the information that a facility would need to include in its plan in order for that plan to be considered approvable during the pre-permit application phase. Subsections G and H in Chapter 22 each contain the requirements of Initial Demonstration of Compliance, and Continuous Demonstration of Compliance, respectively. For information concerning recordkeeping and reporting requirements on banking emission reduction credits see section 613 of Chapter 6. For information concerning determination of creditable emission reductions see section 607 of Chapter 6. Taking subsections F, G, and H in Chapter 22, and sections 607 and 613 in Chapter 6 together, we disagree with the commenter's position in this regard.

Comment #16: The TELC commented that the NO_X rule violates section 172(c) of the Act because it lacks requirements for minimum RACT.

Response to comment #16: We disagree. Although the Act does not define RACT, EPA has defined RACT as the lowest emission limitation that a particular source can meet by applying a control technology that is reasonably available considering technological and economic feasibility. *See* 44 FR 53761 (September 17, 1979). The RACT requirement is established by sections 182(b)(2) and 182(f) of the Act. Section 182(b)(2) requires States to implement RACT with respect to all major sources of volatile organic compounds (VOCs). Section 182(c) makes the requirements of section 182(b)(2) applicable to serious nonattainment areas, such as Baton Rouge. Section 182(f) states that the plan provisions required under section 182(b)(2) for major stationary sources of VOCs shall also apply to major stationary sources (as defined in section 302 and subsections 182(c), (d), and (e)) of NO_X. Taken together, these sections establish the requirements for Louisiana to submit as part of its SIP a NO_X RACT regulation for all major stationary sources of NO_X in ozone nonattainment areas classified as moderate and above. States may also choose to develop RACT requirements on a case by case basis, considering the economic and technical circumstances of an individual source.

The EPA has published Guidance Documents to assist States in developing RACT for affected sources. As stated in section 5 of our July 23, 2002 proposal (67 FR 48095), on November 25, 1992 (57 FR 55620), we published a document of proposed rulemaking entitled ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement). The NO_X Supplement describes and provides preliminary guidance on the requirements of section 182(f) of the Act. The EPA has also identified basic factors for determining RACT technological and economic feasibility in identifying RACT measures. *See* 57 FR 18070 (April 28, 1992). Other EPA guidance memoranda, such as those included in the ''NO_X Policy Document for the Clean Air Act of 1990,'' (EPA–452/R96–005, March 1996), also provide more information about NO_X requirements. In addition, states can use information in EPA's guidance documents known as the Alternative Control Techniques (ACTs) to develop their RACT regulations. In section 5 of our proposal (67 FR 48095), we included a table listing of ACT documents for various source categories of NO_X with their corresponding EPA publication numbers. We also, in section 10 of our proposal (67 FR 48095), included a list of the affected NO_X point source categories, maximum rated capacities, and their relevant emission factors.

The LDEQ developed and promulgated the NO_X RACT regulation with reference to such EPA guidance (*see* Louisiana's Comment Summary-Response & Concise Statement for AQ215, submitted to EPA December 2001). Although EPA has historically recommended source/category-wide presumptive RACT limits, no particular emissions control or emissions limitation automatically qualifies as RACT. Nor is there one control measure or emissions limitation that is RACT for a particular category of sources. The level of reductions required to determine RACT for a particular source depend on a number of factors, including an area's design value, a source's general process and operating procedures as well as the raw materials it uses, the net environmental impact of the control measures and economic feasibility. The level of reductions required by this rule were determined using photochemical grid modeling, an analysis of available technology and resources, and comparison to control measures instituted in other areas (*see* EPA's TSD for this action and Louisiana's Comment Summary-Response & Concise Statement for AQ215, Comments 8–32). Based on the results of the modeling and an analysis of the economic and technologically feasible controls, EPA believes this regulation meets the Act's RACT requirements.

Although the commenter alleges that the NO_X rule violates section 172(c) for not meeting minimum RACT, the TELC fails to provide any specific information, an individual emission factor for an affected source category, or a technological and economical evaluation/comparison to substantiate its position.

We believe that proposed NO_X control measures are economically and technologically feasible, do strengthen the existing Louisiana SIP, assist to bring the BR area into attainment with the ozone standards, and constitute RACT. For these reasons we disagree with the comment.

Comment #17: The TELC commented that the NO_X rule violates section 172(c)(1) of the Act because it lacks requirements for a ''Reasonably Available Control Mechanism.''

Response to Comment #17: We interpret the comment as a reference to section 172(c)(1)'s requirement for ''Reasonably Available Control Measures'' (RACM). We disagree with the commenter. This rule addresses NO_X RACT. As stated previously, EPA believes the emissions limitations contained in Louisiana's Chapter 22 NO_X Rule meet the requirements for RACT. Louisiana has conducted a RACM analysis for its SIP, which is the subject of a separate rulemaking. *See* 67 FR 50391 (August 2, 2002). The EPA will address the State's RACM analysis in that rulemaking. The EPA has previously provided guidance interpreting the RACM requirements of 172(c)(1) in the General Preamble. *See* 57 FR 13498, 13560 (April 16, 1992). In the General Preamble, EPA indicated its interpretation of section 172(c)(1), under the 1990 Amendments, as imposing a duty on States to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in the particular nonattainment area. The EPA also retained its pre-1990 interpretation of the RACM provisions, stating that we would not consider it reasonable to require implementation of measures that might in fact be available for implementation in the nonattainment area, but could not be implemented on a schedule that would advance the date for attainment in the area. The EPA does not believe a RACM analysis is necessary to approve this rule. Therefore, EPA finds no basis in this comment to disapprove or revise the NO_X rule.

Comment #18: The TELC commented that in its July 23, 2002 proposed approval action (67 FR 48095), EPA

proposes to approve Louisiana's NO_X RACT rule based on an agreement ''that the State of Louisiana will be implementing RACT for point source categories.'' The TELC states that this agreement does not provide for the implementation of RACT as required by the Act.

Response to comment #18: The EPA does not know to what ''agreement'' the commenter is referring. As explained in Comment and Response #16, above, EPA is approving this rule because it meets the requirements of sections 182(b)(2) and 182(f) of the Act. We agree that in our July 23, 2002, EPA stated, ''By this approval, we are also agreeing that the State of Louisiana will be implementing RACT for point sources of NO_X in the BR area and its Region of Influence.'' We intended that statement to mean that, upon EPA approval, Louisiana's regulations would meet the RACT requirements of the Act. For these reasons, we find nothing in this comment to preclude our approval of this rule.

Our response to written comments concerning Action Number 2 (67 FR 49647) are as follows:

Comment #19: The LDEQ expressed its support for our July 31, 2002 proposal (67 FR 49647).

Response to comment #19: We appreciate the commenter's support of our July 31, 2002 proposal (67 FR 49647) and have considered these comments in making our final determination.

Comment #20: The TELC commented that Action Number 2 can not be part of the SIP because it has not been properly promulgated by the State and that EPA's consideration of the NO_X rule in parallel proceedings is an improper procedure.

Response to comment #20: As stated in our July 31, 2002, proposal (67 FR 49647), the Governor of Louisiana submitted a letter, dated April 8, 2002, to us requesting that we propose approval of their rule revision concerning RACT for lean burn engines through parallel processing. We proposed approval of the April 8, 2002, SIP revision at the same time as the State was accepting comments and finalizing its rule revision. The method of simultaneously processing and approving a State's proposed rule revision is referred to as parallel processing. Parallel processing allows a State to submit a SIP revision prior to actual adoption by the State and provides an opportunity for the State to consider EPA comments prior to submission of final SIP revision for final EPA review and action. The 40 CFR Part 51, Appendix V provides for this method of regulatory review and SIP processing. The EPA explained its reasoning when promulgating these procedures. *See* also, 55 FR 5824 (February 16, 1990). As stated in our July 31, 2002, proposal (67 FR 49647), the State and EPA properly followed the parallel processing requirements of 40 CFR Part 51, Appendix V. Since the criteria set forth in 40 CFR Part 51, Appendix V have been promulgated long since, the procedural rules that allow this means of considering SIP revisions of Action Number 2 can no longer be challenged. Finally, the State's final rule revision is not significantly different from its April 8, 2002 submission (proposed rule); therefore, we will not be re-proposing our action.

The State's submittal, the Governor's letter, and our proposal to approve this particular SIP revision were made available for public review and comment, in accordance with the applicable rules, regulations, and procedures. We disagree with the commenter's position, and believe our approval of this SIP revision will strengthen Louisiana's SIP and will further safeguard the health and welfare of the public in the affected areas.

Comment #21: The LAMOGA commented that EPA's requirement to amend the capacity threshold for the lean burn engines was a last minute action.

Response to comment #21: Contrary to the LAMOGA's statement, EPA's recommendation to amend the capacity for the lean burn engines was not a last minute decision or action. In a letter to the LDEQ dated December 3, 2001, on page 11, EPA wrote: ''we are concerned that major sources of NO_X may not be controlled if the exemption level for lean burn engines in the NO_X rule remains at 1500 horsepower (hp)... Louisiana should lower the applicability threshold for lean burn engines to insure all major sources institute RACT at a minimum as required by the Clean Air Act * * * '' In a letter to the LDEQ, dated January 24, 2002, EPA expressed its concern over this issue again by stating ''we are concerned that all major sources of NO_X may not be controlled sufficiently to meet the statutory RACT requirement, if the exemption level for the lean burn engines is 1500 Hp.'' The LDEQ has since lowered the threshold limit for the lean burn engines and in a May 1, 2002, letter to the LDEQ we expressed our support for the State's action in this regard. The December 3, 2001, January 24, 2002, and May 1, 2002, letters are part of the docket and have been available to the public since the commencement of this rulemaking. Based on these three letters of record, we believe that there has been ample notice and opportunity for comment regarding EPA's position, and therefore disagree with the commenter's position in this regard.

Comment #22: The LAMOGA expressed its concern that the LDEQ's request to process the AQ224 rule through parallel processing was driven by mandated deadlines; otherwise, RACT would not have been triggered for lean burn engines of 320 Hp or above.

Response to comment #22: We refer to our response to comment #20 with respect to LAMOGA's comments regarding parallel processing. LAMOGA's comments indicate that the organization has been actively involved in the regulatory development arena of the BR area SIP and state's Ozone Task Force.

Section 182(b)(2) of the Act requires that a state submit a revision to its SIP that includes provisions requiring implementation of RACT under section 172(c)(1). Section 172(c)(1) of the Act requires that SIP provisions provide for implementation of RACT, at a minimum, as expeditiously as practicable to attain the NAAQS. In addition, section 182(f) of the Act states that SIP provisions required for major sources of VOCs also apply to the major sources of NO_X. The BR area was designated a serious ozone nonattainment area (40 CFR 81.319). According to section 182(c) of the Act, a major source in a serious nonattainment area is a source that has a potential to emit 50 tpy or more of NO_X. Lean burn engines of 320 hp and above have the potential to emit 50 tpy or more of NO_X. *See* Pages 9 and ten of our TSD for this rulemaking. The 40 CFR Part 51, Appendix V provides for a state to request EPA to process revisions to its SIP as the state is accepting comments and finalizing its rule revision. We believe that the above listed statutory requirements of the Act are the driving forces for adoption of AQ224. While we appreciate the commenter's statement for not wanting to jeopardize approval of the BR area ozone attainment demonstration SIP, we also note that the major source threshold for a stationary source in a severe ozone nonattainment area is 25 tpy. The 25 tpy cut-off could potentially subject additional lean burn engines in the BR area to RACT requirements if the current measures are not adopted or implemented accordingly. The proposed lean burn engine requirements can be met with combustion modifications and without utilizing post combustion control technology measures. The Chapter 22 NO_X rule provides for operational flexibility through facility-wide averaging provisions of which a

source may want to take advantage. *See* subsection E in Chapter 22.

Comment #23: The LAMOGA commented that LDEQ has not adequately demonstrated RACT for lean burn engines between 320 and 1500 Hp.

Response to comment #23: We disagree. The NO_X emission factor for lean burn engines of 320 Hp or higher in size, within the BR area, is set forth at 4 grams/Hp-Hour. *See* Subsection D.1 in Chapter 22. The EPA has received documentation from an affected facility in the BR area that this level of control for such engines can be easily and cost-effectively achieved. This documentation is part of the docket and available to the public for review. The NO_X emission factor for lean burn engines as set forth in Chapter 22 rule is consistent with the findings of the report titled ''Stationary Reciprocating Internal Combustion Engines, Updated Information on NO_X Emissions and Control Techniques'' dated September 1, 2000. *See* Pages 4–4 and 4–12 of this report. You can find this report at: *http://www.epa.gov/ttnnaaqs/ozone/rto/fip/data/rfic_engine.pdf.*

The commenter's claim that the controls are not cost-effective, and consequently not RACT, is wrong for a number of reasons. First, it appears that the commenter has selectively chosen the hours of operation so that its measure of cost effectiveness is biased. Second, in any event, as in any technology-based scheme, the focus must be first on emission reduction, not on cost. *See e.g. Husgvarna AB* v. *EPA,* 254 F 3d 195,200 (D.C. Cir. 2001)(cost considerations are subordinate to emission reduction goals of technology-based requirement); *Lignite Energy Council* v. *EPA,* 198 F 3d 930, 933 (D.C. Cir. 1999)(emission reductions resulting from technology based scheme must be sustained unless economic or environmental costs are ''exorbitant''). As stated previously, an affected facility in the BR area has submitted documentation showing that it, as well as other affected facilities, are capable of achieving emissions levels well below the required limit for lean burn engines. This documentation corroborates the State's and EPA's similar conclusions. Therefore, the economic or environmental costs to the commenter can not be considered exorbitant. Furthermore, it is entirely unreasonable for an uncontrolled major source to selectively choose a desirable number of ''hours per year'' to arrive at a higher value for cost per ton of NO_X in its economic analysis, declare control requirements to be economically infeasible based on this faulty accounting, and thus continue operation absent of any control measures. Based on foregoing information, we believe that Chapter 22 requirement for lean burn engines is technologically and economically feasible, and consider the State's RACT limits to be reasonable.

Comment #24: The LAMOGA suggests that LDEQ may consider, at a later date, to amend (relax) the NO_X emission limits for lean burn engines.

Response to comment #24: While attaining the ozone NAAQS in BR area is a formidable challenge for both the regulated community and regulating entities, maintaining the standard could prove to be an even more challenging task. The EPA notes that any future revisions to the SIP in the BR area would have to meet the requirements of the Act, including section 110, and must continue to demonstrate attainment.

This concludes our responses to the received written comments concerning Actions Number 1 and 2.

6. What is Definition of a Major Source for NO_X?

The BR area was designated as a serious ozone nonattainment area (40 CFR 81.319). According to section 182(c) of the Act, a major source in a serious nonattainment area is a source that emits, when uncontrolled, 50 tpy or more of NO_X. Therefore, the major source size for NO_X within these 9 parishes is 50 tpy or more, when uncontrolled.

7. What is the History of NO_X RACT Rules for Point Sources in the BR Area?

Prior to our proposed rulemaking actions (67 FR 48095 and 67 FR 49647) the Louisiana's approved SIP did not a contain NO_X RACT rule for point sources operating in these 9 parishes. We believe that implementation of today's rule revisions will assist in bringing the BR area into attainment with the federal 1-hour ozone standard, and will strengthen the existing Louisiana SIP.

8. What are the NO_X Emissions Factors for Point Sources of NO_X in the BR Area?

The following Table contains a summary of the affected NO_X point source categories, maximum rated capacities, and their relevant emission factors based on the February 27, and July 25, 2002, SIP submittals. *See* LAC 33:III:2201, section D(1). Table I—Affected Categories of NO_X, Maximum Rated Capacities, and Emission Factors in the BR area

Category	Maximum Rated Capacity	NO_X Emission Factor
Electric Power Generating System Boilers:		
Coal-fire	≥80 MMBtu/Hour	0.21 lb/MMBtu
Number 6 Fuel Oil-fired	≥80 MMBtu/Hour	0.18 lb/MMBtu
All Others (gaseous or liquid)	≥80 MMBtu/Hour	0.10 lb/MMBtu
Industrial Boilers	≥80 MMBtu/Hour	0.10 lb/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	≥80 MMBtu/Hour	0.23lb/MMBtu
All Others	≥80 MMBtu/Hour	0.08 lb/MMBtu
Stationary Gas Turbines:		
Peaking Services, Fuel oil-fired	≥10 MW	0.30 lb/MMBtu
Peaking Services, Gas-fired	≥10 MW	0.20 lb/MMBtu
All others	≥10 MW	0.16 lb/MMBtu or 42 ppm @ 15% O2, dry basis
Stationary Internal Combustion Engines:		
Lean Burn (Region of Influence)	≥1500 Hp	4 g/Hp-Hour
Lean Burn (BR Nonattainment area)	≥320 Hp	4 g/Hp-Hour
Rich Burn	≥300 Hp	2 g/Hp-Hour

We believe that the above NO_X emission factors for point sources of NO_X in the BR area and Region of Influence will assist in bringing the BR area into attainment with the federal 1-hour ozone standard, and will strengthen the existing Louisiana SIP. *See* section II, A.5, 67 FR 50391 (August 2, 2002).

By this approval we are agreeing that the State of Louisiana will be implementing RACT for point source categories listed in Table I of this document.

9. What is the Compliance Schedule for Point Sources of NO_X in the BR Area?

The compliance date for point sources of NO_X in the BR area is as expeditiously as possible, but no later than May 1, 2005. *See* LAC 33:III:2201, sections J(1) and (2). We believe that the compliance schedule for point sources of NO_X in the BR area will assist in bringing the BR area into attainment with the federal 1-hour ozone standard, and will strengthen the existing Louisiana SIP.

10. What areas in Louisiana will today's rulemaking affect?

The following table contains a list of Parishes affected by today's rulemaking.

TABLE II—RULE NUMBER AND AFFECTED PARISHES OF LOUISIANA

Rule No.	Affected parishes
LAC 33:III:2201 (AQ215) provisions.	Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana
LAC 33:III:2201 (AQ224) provisions.	Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge

If you are in one of these Louisiana parishes, you should refer to the Louisiana NO_X rules to determine if and how today's action will affect you.

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 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 (Public Law 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). This action also does not have Federalism implications because it does not 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 Clean Air Act. 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 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. 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. section 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 2002. 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 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Nitrogen oxides, Nonattainment, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 20, 2002.

Lawrence Starfield,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart T—Louisiana

2. In § 52.970 the table in paragraph (c) is amended by:

a. adding a new centered heading, immediately after ''Table 8'' in Chapter 21 and before Chapter 23, entitled ''Chapter 22—Control of Emissions of Nitrogen Oxides (NO_X)''

b. adding entries for section 2201, and subsections A, B, C, D, E, F, G, H, I, and J under new Chapter 22.

The additions read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA date approval	Comments
*	*	*	*	*
Chapter 21—Control of Emissions of Organic Compounds				
*	*	*	*	*
Table 8	Untitled [List of Synthetic Organic Chemicals].	Dec. 1987, LR13:741	05/05/94, 59 FR 2311666	Ref 52.999(c)(49) and (60). Table approved at (c)(49) included CAS numbers. Table approved at (c)(60) did not include CAS numbers.
Chapter 22—Control of Emissions of Nitrogen Oxides (NO_X)				
Section 2201—Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence				
Subsection A	Applicability	Feb. 27, 2002 July 25, 2002.	September 27, 2002 and FR cite	
Subsection B	Definitions	Feb. 27, 2002 July 25, 2002.	September 27, 2002 and FR cite	
Subsection C	Exemptions	Feb. 27, 2002 July 25, 2002.	September 27, 2002 and FR cite	
Subsection D	Emission Factors	Feb. 27, 2002 July 25, 2002.	September 27, 2002 and FR cite	Cutoff size for lean burn engines lowered to 320 Hp on July 25, 2002, for the ozone nonattainment parishes. Cutoff size for lean burn engines in the Region of Influence is 1500 Hp.
Subsection E	Alternative Plans	Feb. 27, 2002 July 25, 2002.	September 27, 2002 and FR cite	
Subsection F	Permits	Feb. 27, 2002 July 25, 2002.	September 27, 2002 and FR cite	
Subsection G	Initial Demonstration of Compliance.	Feb. 27, 2002 July 25, 2002.	September 27, 2002 and FR cite	
Subsection H	Continuous Demonstration of Compliance.	Feb. 27, 2002 July 25, 2002.	September 27, 2002 and FR cite	
Subsection I	Notification, Record-keeping, and Reporting Requirements.	Feb. 27, 2002 July 25, 2002.	September 27, 2002 and FR cite	
Subsection J	Effective Dates	Feb. 27, 2002 July 25, 2002.	September 27, 2002 and FR cite	
Chapter 23—Control of Emissions From Specific Industries				
*	*	*	*	*

[FR Doc. 02–24636 Filed 9–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0225; FRL–7200–7]

Pyraclostrobin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of pyraclostrobin (carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester and its desmethoxy metabolite methyl 2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl carbamate, expressed as parent compound, in or on almond, hulls and various other fruits and vegetables and agricultural products, and combined residues of pyraclostrobin, carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester and its metabolites convertible to 1-(4-chlorophenyl)-1H-pyrazol-3-ol and 1-(4-chloro-2-hydroxyphenyl)-1H-pyrazol-3-ol, expressed as parent compound, in or on cattle, fat and various other animal products. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.