

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 50**

[AD-FRL-5632-1]

RIN 2060-AC06

**National Ambient Air Quality Standards for Nitrogen Dioxide: Final Decision**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final decision.

**SUMMARY:** The level for both the existing primary and secondary national ambient air quality standards (NAAQS) for nitrogen dioxide (NO<sub>2</sub>) is 0.053 parts per million (ppm) (100 micrograms per meter cubed (µg/m<sup>3</sup>)) annual arithmetic average. As required under the provisions of sections 108 and 109 of the Clean Air Act (Act), the EPA has conducted a review of the criteria upon which the existing NAAQS for NO<sub>2</sub> are based. On October 2, 1995, the Administrator announced her proposed decision not to revise either the primary or secondary NAAQS for NO<sub>2</sub> based on this review (60 FR 52874; October 11, 1995). Today's action provides the Administrator's final determination, after careful evaluation of the comments received on the October 1995 proposal, that revisions to neither the primary nor the secondary NAAQS for NO<sub>2</sub> are appropriate at this time.

**ADDRESSES:** A docket containing information relating to the EPA's review of the NAAQS for NO<sub>2</sub> (Docket No. A-93-06) is available for public inspection at the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (Mail Code 6102), Central Docket Section, South Conference Center, Room M-1500, 401 M Street, SW., Washington, DC 20460, telephone (202) 260-7548. The docket may be inspected between 8 a.m. and 5:30 p.m. on weekdays. A reasonable fee may be charged for copying. The information in the docket constitutes the complete basis for this final decision. For availability of related information see the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** Ms. Chebrill C. Edwards, U.S. EPA, Office of Air Quality Planning and Standards (OAQPS), Air Quality Strategies and Standards Division (MD-15), Research Triangle Park, NC 27711, telephone (919) 541-5428.

**SUPPLEMENTARY INFORMATION:** *Availability of Related Information.* The revised criteria document, "Air Quality

Criteria for Oxides of Nitrogen" (three volumes, EPA-600/8-91/049aF-cF, August 1993; Volume I, NTIS #PB95124533, \$52.00; Volume II, NTIS #PB95124525, \$77.00; Volume III, NTIS #PB95124517, \$77.00), and the final revised OAQPS Staff Paper, "Review of the National Ambient Air Quality Standards for Nitrogen Dioxide: Assessment of Scientific and Technical Information," (EPA-452/R-95-005, September 1995; NTIS #PB95271573, \$27.00) are available from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, or call 1-800-553-6847 (a handling charge will be added to each order). Other documents generated in connection with this standard review, such as air quality analyses and relevant scientific literature, are available in Docket No. A-93-06.

**Affected entities.** Entities potentially affected by this action are those which emit (or manufacture products which emit) NO<sub>2</sub> or other oxides of nitrogen. Affected categories and entities include:

Category	Examples of affected entities
Industry .....	Electric utilities, automobile manufacturers, mining and mineral processing companies.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in title 40 of the Code of Federal Regulations, part 50. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The contents of this action are listed below:

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**I. Background**

**A. Legislative Requirements Affecting This Decision**

1. The standards. Two sections of the Act govern the establishment and revision of NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify pollutants which "may reasonably be anticipated to endanger public health and welfare" and to issue air quality criteria for them. These air quality criteria are to "accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air \* \* \*."

Section 109 (42 U.S.C. 7409) directs the Administrator to propose and promulgate "primary" and "secondary" NAAQS for pollutants identified under section 108. Section 109(b)(1) defines a primary standard as one "the attainment and maintenance of which, in the judgment of the Administrator, based on the criteria and allowing an adequate margin of safety, (is) requisite to protect the public health." For a discussion of the margin of safety requirement, see the October 11, 1995 proposal notice (60 FR 52875). A secondary standard, as defined in section 109(b)(2), must "specify a level of air quality the attainment and maintenance of which, in the judgment of the Administrator, based on (the) criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of (the) pollutant in the ambient air." Welfare effects, as defined in section 302(h) (42 U.S.C. 7602(h)), include, but are not limited to, "effects on soil, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being."

Section 109(d)(1) of the Act requires periodic review and, if appropriate, revision of existing criteria and standards. The process by which EPA has reviewed the existing air quality

criteria and standards for NO<sub>2</sub> is described later in this notice.

2. Related control requirements. States are primarily responsible for ensuring attainment and maintenance of ambient air quality standards. The October 11, 1995 proposal notice (60 FR 52876) provides a detailed discussion of the requirements States must fulfill to ensure adequate implementation of control programs directed toward air emission sources.

#### *B. Nitrogen Oxides and the Existing Standards for NO<sub>2</sub>*

Nitrogen dioxide is a brownish, highly reactive gas which is formed in the ambient air through the oxidation of nitric oxide (NO). Nitrogen oxides (NO<sub>x</sub>), the term used to describe the sum of NO, NO<sub>2</sub> and other oxides of nitrogen, play a major role in the formation of ozone in the atmosphere through a complex series of reactions with volatile organic compounds. A variety of NO<sub>x</sub> compounds and their transformation products occur both naturally and as a result of human activities. Anthropogenic sources of NO<sub>x</sub> emissions account for a large majority of all nitrogen inputs to the environment. The major sources of anthropogenic NO<sub>x</sub> emissions are mobile sources and electric utilities. Ammonia and other nitrogen compounds produced naturally are important in the cycling of nitrogen through the ecosystem.

The origins, concentrations, and effects of NO<sub>2</sub> are discussed in detail in the "Review of National Ambient Air Quality Standards for Nitrogen Dioxide: Assessment of Scientific and Technical Information," (Staff Paper or SP) (U.S. EPA, 1995a) and in the revised document, "Air Quality Criteria for Oxides of Nitrogen," (Criteria Document or CD) (U.S. EPA, 1993). At elevated concentrations, NO<sub>2</sub> can adversely affect human health, vegetation, materials, and visibility. Nitrogen oxide compounds also contribute to increased rates of acidic deposition. Typical peak annual average ambient concentrations of NO<sub>2</sub> have historically ranged from 0.007 to 0.061 ppm (U.S. EPA, 1993). The highest hourly NO<sub>2</sub> average concentrations range from 0.04 to 0.54 ppm (U.S. EPA, 1993). Currently, all areas of the U.S., including Los Angeles (which is the only area to record violations in the last decade), are in attainment of the annual NO<sub>2</sub> NAAQS of 0.053 ppm.

On April 30, 1971, EPA promulgated identical primary and secondary NAAQS for NO<sub>2</sub>, under section 109 of the Act, at 0.053 ppm annual average (36 FR 8186). The criteria upon which

these initial standards were based were updated in the revised 1982 document, "Air Quality Criteria for Oxides of Nitrogen" (U.S. EPA, 1982). On February 23, 1984, the EPA proposed to retain both the annual primary and secondary standards at 0.053 ppm annual average (49 FR 6866). After taking into account public comments, the final decision to retain the NAAQS for NO<sub>2</sub> was published by EPA in the Federal Register on June 19, 1985 (50 FR 25532). For a more detailed discussion of the regulatory history and the bases for the existing NAAQS for NO<sub>2</sub>, see the October 11, 1995 proposal notice (60 FR 52876).

#### *C. Review of Air Quality Criteria and Standards for Oxides of Nitrogen*

On July 22, 1987, in response to requirements of section 109(d) of the Act, the EPA announced that it was undertaking plans to revise the 1982 CD (52 FR 27580). In November 1991, the EPA released the revised CD for public review and comment (56 FR 59285).

The revised CD provides a comprehensive assessment of the available scientific and technical information on health and welfare effects associated with NO<sub>2</sub> and NO<sub>x</sub>. The Clean Air Scientific Advisory Committee (CASAC) reviewed the CD at a meeting held on July 1, 1993 and concluded in a closure letter to the Administrator that the CD "\* \* \* provides a scientifically balanced and defensible summary of current knowledge of the effects of this pollutant and provides an adequate basis for EPA to make a decision as to the appropriate NAAQS for NO<sub>2</sub>" (Wolff, 1993). In the summer of 1995, OAQPS finalized the document entitled, "Review of the National Ambient Air Quality Standards for Nitrogen Dioxide: Assessment of Scientific and Technical Information," (U.S. EPA, 1995a). This Staff Paper summarizes and integrates the key studies and scientific evidence contained in the revised CD and identifies the critical elements to be considered in the review of the NO<sub>2</sub> NAAQS.

The Staff Paper received external review at a December 12, 1994 CASAC meeting. The CASAC comments and recommendations were reviewed by EPA staff and incorporated into the final draft of the Staff Paper as appropriate. The CASAC reviewed the final draft of the Staff Paper in June 1995 and responded by written closure letter (Wolff, 1995).

#### *D. Decision Docket*

In 1993, the EPA established a docket (Docket No. A-93-06) for this standard

review. This docket incorporates by reference a separate docket established for the CD revision (Docket No. ECAO-CD-86-082).

#### *E. Litigation*

On July 21, 1993, the Oregon Natural Resources Council and Jan Nelson filed suit under section 304 of the Act to compel the EPA to complete its periodic review of the criteria and standards for NO<sub>2</sub> under section 109(d)(1) of the Act (*Oregon Natural Resources Council v. Carol M. Browner*, No. 91-6529-HO (D.Or.)). The U.S. District Court for the District of Oregon entered an order on February 8, 1995 requiring the EPA Administrator to sign a notice to be published in the Federal Register announcing the final decision whether or not to modify the NO<sub>2</sub> NAAQS by October 1, 1996.

## II. Summary of Public Comments

The EPA received eight written responses to its proposed decision which was published October 11, 1995 (60 FR 52874). Of the eight submissions, five were provided by individual industrial companies or industrial associations, two were submitted by a State government and an independent agency of that State, and the last by an incorporated association of citizens concerned about environmental issues. Below is a general summary of the public comments. A more detailed summary, along with EPA's responses to each comment, can be found in Docket No. A-93-06, Category IV-D.

Of the five commenters who chose to address the primary (health-based) standard, all concurred with the Administrator's proposed determination that revisions to the existing annual primary standard for NO<sub>2</sub> are not appropriate.

These same commenters also agreed with the Administrator's proposed decision that revisions to the existing annual secondary (welfare-based) standard are not appropriate. The other three commenters expressed concern about EPA's proposed decision not to revise the secondary standard to protect sensitive aquatic resources. Specifically, the State commenters were concerned about nitrogen deposition and its contribution to the acidification of their State's freshwater bodies, particularly Adirondack lakes. The citizen's group is concerned about nitrogen deposition and its contribution to the eutrophication effects being observed in Chesapeake Bay.

### III. Rationale for Final Decision

#### A. The Primary Standard

The rationale for retaining the existing primary NAAQS for NO<sub>2</sub> was presented in some detail in the 1995 proposal notice (60 FR 52874; October 11, 1995) and remains unchanged. At that time, EPA concluded that the existing annual primary standard appears to be both adequate and necessary to protect human health against both long- and short-term NO<sub>2</sub> exposures. The EPA also concluded that retaining the existing annual standard is consistent with the scientific data assessed in the Criteria Document (U.S. EPA, 1993) and Staff Paper (U.S. EPA, 1995a) and with the advice and recommendations of CASAC. After taking into account the public comments, all of which supported the proposed decision on the primary standard, the Administrator again concludes that revisions to the existing annual primary NAAQS for NO<sub>2</sub> are not appropriate at this time.

#### B. The Secondary Standard

As discussed in detail in the October 11, 1995 proposal notice (60 FR 52880), NO<sub>2</sub> and other nitrogen compounds have been associated with a wide range of effects on public welfare. These effects include the acidification and eutrophication of aquatic systems, potential changes in the composition and competition of some species of vegetation in wetland and terrestrial systems, and visibility impairment.

Commenters were generally supportive of, or were silent with respect to, EPA's conclusions regarding the following: (1) The direct effects of NO<sub>x</sub> on vegetation and materials, (2) the direct toxic effects of ammonia deposition to aquatic systems, (3) the effects of nitrogen deposition on terrestrial and wetland systems and soil acidification, and (4) the appropriateness of the secondary standard to protect against visibility impairment. Hence, for the reasons discussed in the October 1995 proposal (60 FR 52880), the Administrator again concludes that it is not appropriate to make any revisions to the existing annual secondary standard for NO<sub>2</sub> with respect to such effects nor is it appropriate to establish a separate secondary NO<sub>2</sub> standard to protect visibility.

The principal issues raised, with respect to the Administrator's proposed decision not to revise the annual secondary standard for NO<sub>2</sub> at this time, were concerning the effects of nitrogen deposition on the acidification of freshwater bodies (particularly Adirondack lakes) and the

eutrophication of Chesapeake Bay. The two State commenters and one concerned citizen's group argued that the proposed decision did not comply with section 109(b)(2) of the Act because the existing annual secondary standard for NO<sub>2</sub> does not protect aquatic systems from the adverse effects of NO<sub>x</sub> in the ambient air. All other commenters agreed with the Administrator's conclusion that there is not yet enough consistent scientific information to support a revision of the current secondary standard to protect these aquatic systems.

The October 1995 proposal notice (60 FR 52882) discussed the basic scientific evidence available regarding the effects of NO<sub>x</sub> on aquatic systems through the processes of eutrophication and acidification. No commenter challenged EPA's interpretation of the available science. Therefore, it is left to the Administrator's judgment as to whether the available evidence provides an adequate basis to set a secondary NAAQS to protect sensitive aquatic resources from the effects associated with nitrogen deposition. The discussions in the next two subsections focus on the key concerns of the commenters and provide some indication of the Administrator's conclusions on particular issues.

1. Key public comments concerning acidification. Two commenters were particularly concerned about the acidification of Adirondack lakes. These commenters pointed out that, in the October 1995 proposal notice, the Administrator did not conclude that "the existing standard is sufficient to protect aquatic resources from the effects of nitrogen dioxide." Therefore, the commenters indicated that the Administrator must take some action to protect such resources. Because of the scientific complexity of nitrogen deposition issues and because the available scientific data assessed in the revised CD (U.S. EPA, 1993) do not provide adequate quantitative evidence on the relationship between deposition rates and environmental impacts, it is difficult for the Administrator to conclude, with any degree of certainty, that the existing secondary NAAQS for NO<sub>2</sub> is not adequate to protect sensitive aquatic systems. The Administrator does agree that the available evidence indicates that nitrogen deposition plays some role in surface water acidification. However, as noted in the proposal notice (60 FR 52882), there are significant uncertainties with regard to the long-term role of nitrogen deposition in surface water acidity and with regard to the quantification of the magnitude and timing of the relationship between

atmospheric deposition and the appearance of nitrogen in surface water. Thus, it is difficult to determine what levels of airborne reductions would be necessary to remedy the situation. Therefore, the Administrator concludes that until such evidence is available and incorporated into the air quality criteria for this pollutant, a revision to the secondary standard is not appropriate. All other commenters agreed with this conclusion.

One of the commenters also pointed out that "unless an acid deposition standard is promulgated, or other regulatory means are adopted that protect the valuable lakes and waters of [the State] and the other northeastern states from the destructive effects of acid rain, EPA must revise the secondary NAAQS for nitrogen dioxide . . ." The complexity of the scientific issues involved led the CASAC to conclude that available scientific information assessed in the CD and SP did not provide an adequate basis for standard setting purposes at this time (Wolff, 1995). Furthermore, in its review of the "Acid Deposition Standard Feasibility Study: Report to Congress" (U.S. EPA, 1995b), the Acid Deposition Effects Subcommittee of the Ecological Processes and Effects Committee of the EPA's Science Advisory Board concluded that there was not an adequate scientific basis for establishing an acidic deposition standard. The commenter did not provide additional quantitative evidence for the Administrator to consider. Therefore, the Administrator again concludes that the current scientific uncertainties associated with determining the level(s) of an acid deposition standard(s) are significant and current scientific information does not provide an adequate basis for establishing a standard to protect sensitive ecosystems from the effects of acidification.

The commenter recognized EPA's concern that revision of the secondary NAAQS may not be the best mechanism for addressing the effects of acid rain and supported regionally-targeted regulatory efforts. The Agency has initiated efforts to assess appropriate regionally-targeted environmental goals for sensitive systems. For instance, the "Acid Deposition Standard Feasibility Study: Report to Congress" (U.S. EPA, 1995b) sets forth a range of regionally-specific goals which were designed to help guide the policy maker when assessing NO<sub>x</sub> control strategies and their potential for reducing nitrogen deposition effects. The Agency will continue, as appropriate, to assess the feasibility of developing other regionally-targeted tools and policy

initiatives as additional scientific information emerges from ongoing research.

2. Key public comments concerning eutrophication. The definition of eutrophication and a detailed summary of the potential effects associated with this process can be found in the October 11, 1995 proposal notice (60 FR 52833).

One concerned citizen's group has petitioned EPA to revise the secondary standard for NO<sub>2</sub>, or to take such other measures as required by the Act, to control NO<sub>x</sub> emissions to the Chesapeake Bay and other coastal waters. However, without better quantitative data, it is difficult to set a national standard which will adequately protect sensitive ecosystems, such as the Chesapeake Bay, from the effects of eutrophication. The commenter did not provide additional quantitative data for the Administrator's review.

Even with limited quantitative information, the Administrator acknowledges the importance of reducing the atmospheric nitrogen loads into the Chesapeake Bay. The EPA has already initiated a number of activities which may have an impact on lessening the effects of atmospheric NO<sub>x</sub> deposition on nitrogen levels in the Bay. These measures include the following:

(1) Developing a coordinated, multimedia approach for managing nutrient loads to coastal waters; (2) incorporating priorities into EPA's strategic plan to address acid deposition within the Mid-Atlantic region through reduction of nitrogen emissions; and (3) setting numerical goals for the reduction of NO<sub>x</sub> emissions (at the regional level) in compliance with programs mandated under titles I and IV of the Act. In addition, an internal EPA work group has recently been formed to develop a strategy for identifying research needs relevant to nitrogen deposition.

Given the complexities associated with estimating the contribution of nitrogen deposition to the eutrophication of estuarine and coastal waters and the limited data currently available, the Administrator again concludes that there is not sufficient quantitative information to establish a national secondary standard to protect sensitive ecosystems from the eutrophication effects caused by nitrogen deposition. The Administrator also concludes that regional control strategies which consider all of the factors contributing to eutrophication are more likely to be effective in mitigating this problem than a national standard which addresses only atmospheric deposition of nitrogen compounds. Additional site-specific investigations (such as the Chesapeake

Bay Study; see 60 FR 52883 for details) are needed to ascertain the most effective mitigation strategies. Other commenters agreed with the Administrator's conclusion that a revision to the secondary NAAQS based on concerns over eutrophication is not warranted at this time.

3. Final decision on the secondary standard. For the reasons discussed in the October 11, 1995 proposal notice (60 FR 52874) and after taking into account the public comments as discussed above, the Administrator again concludes, in her judgment, that the available scientific and technical evidence assessed in the Criteria Document (U.S. EPA, 1993) and Staff Paper (U.S. EPA, 1995a) does not provide an adequate basis for setting a separate secondary standard for NO<sub>2</sub> to address the effects associated with nitrogen deposition on acidification of freshwater bodies and eutrophication of estuaries and coastal waters. Given the multiple causes and regional character of these problems, the Administrator also concludes that adoption of a nationally-uniform secondary standard would not be an effective approach to addressing them. Therefore, the Administrator has determined, pursuant to section 109(d)(1) of the Act, as amended, that it is not appropriate to revise the current secondary standard for NO<sub>2</sub> to protect against welfare effects at this time.

As provided for under the Act, the EPA will continue to assess the scientific information on nitrogen-related effects as it emerges from ongoing research and will update the air quality criteria accordingly. These revised criteria should provide a more informed basis for reaching a decision on whether a revised NAAQS or other regulatory measures are needed in the future.

In the interim, the EPA and the States are in the process of achieving significant reductions in NO<sub>x</sub> emissions from both mobile and stationary sources in response to the Act's 1990 Amendments (Pub. L. 101-549, 104 Stat. 2399 (1990)) and local or regional initiatives. These actions include NO<sub>x</sub> emission reductions from the following: (1) Stationary sources to meet the ozone NAAQS under title I of the Act, (2) mobile sources through the Federal Motor Vehicle Control Program under title II of the Act, and (3) electric utilities under title IV. In addition, regional initiatives, such as the Ozone Transport Assessment Group (which covers a 37-state area) and the Chesapeake Bay Program, are considering the need for additional NO<sub>x</sub> reductions beyond those that are

mandated by law. The EPA believes it is important to continue to recognize the benefits to the environment that can be achieved by further reducing NO<sub>x</sub> emissions. The NO<sub>x</sub> emissions reductions achieved through these actions will provide additional protection against the environmental impacts associated with the ozone NAAQS, visibility, eutrophication, and acid deposition and will assure areas attain and maintain the NO<sub>2</sub> NAAQS.

### C. Judicial Review

The EPA has decided (pursuant to the Act, section 109(d)(1)) that no revision of the current primary or secondary NAAQS for NO<sub>2</sub> is appropriate. This decision is a final Agency action based on a determination of nationwide scope and effect. This decision is therefore subject to judicial review under the Act, section 307(b), exclusively in the United States Court of Appeals for the District of Columbia Circuit. Any petition for judicial review of this final Agency action must be filed in that court within 60 days after October 8, 1996.

## IV. Miscellaneous

### A. Executive Order 12866

Under Executive Order 12866, the Agency must determine whether a regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines "significant regulatory action" as one that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Although EPA is not making any modification to the existing NO<sub>2</sub> NAAQS, OMB has advised EPA that this action should be construed as a "significant regulatory action" within the meaning of the Executive Order. Accordingly, this action was submitted to OMB for review. Any suggestions or recommendations received from OMB have been incorporated into the public record.

### B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601 et seq.) requires Federal agencies to consider the impacts of certain proposed and final regulations on small entities, which are defined as small businesses, small organizations, and small governmental jurisdictions. These requirements do not apply to any final administrative action which does not involve rulemaking. The EPA does not interpret sections 109 and 307 of the Act to require use of rulemaking procedures in those instances where the Agency decides not to initiate revision of existing NAAQS after completing its periodic review. The EPA has determined that the impact assessment requirements of the RFA are not applicable to this final administrative action.

### C. Impact on Reporting Requirements

There are no reporting requirements directly associated with an ambient air quality standard promulgated under section 109 of the Act (42 U.S.C. 7400). There are, however, reporting requirements associated with related sections of the Act, particularly sections 107, 110, 160, and 317 (42 U.S.C. 7407, 7410, 7460, and 7617). This final action will not result in any changes in these reporting requirements since it would retain the existing level and averaging times for both the primary and secondary standards.

### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104-4, establishes requirements for Federal agencies to assess the effects of their

regulatory actions on State, local, and tribal governments and the private sector. Under sections 202, 203, and 205, respectively, of the UMRA, EPA generally must: (1) Prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year; (2) develop a small government agency plan; and (3) identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule.

Because the Administrator has decided not to revise the existing national primary and secondary standards for NO<sub>2</sub>, this action will not impose any new expenditures on governments or on the private sector, or establish any new regulatory requirements affecting small governments. Accordingly, EPA has determined that the provisions of sections 202, 203, and 205 of the UMRA do not apply to this final decision.

#### List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: October 1, 1996.

Carol M. Browner,  
Administrator.

#### References

- (1) "Oregon Natural Resource Council vs. Carol M. Browner," No. 91-6529-HO (D. Or.) (1993).

- (2) U.S. Environmental Protection Agency. (1982) Air Quality Criteria for Oxides of Nitrogen. Research Triangle Park, NC: Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office; EPA report no. EPA-600/8-82-026. Available from: NTIS, Springfield, VA; PB83-131011.

- (3) U.S. Environmental Protection Agency. (1993) Air Quality Criteria for Oxides of Nitrogen. Research Triangle Park, NC: Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office; EPA report no. EPA-600/8-91-049aF-cF, August 1993. Available from: NTIS, Springfield, VA.

- (4) U.S. Environmental Protection Agency. (1995a) Review of the National Ambient Air Quality Standards for Nitrogen Oxides: Assessment of Scientific and Technical Information. OAQPS Staff Paper. Office of Air Quality Planning and Standards; EPA report no. EPA-452/R-95-005, September 1995.

- (5) U.S. Environmental Protection Agency. (1995b) A SAB Report: Review of the Acid Deposition Standard Feasibility Study Report to Congress. Prepared by the Acid Deposition Effects Subcommittee of the Ecological Processes and Effects Committee; EPA report no. EPA-SAB-EPEC-95-019, September 1995.

- (6) Wolff, G. T. (1993) CASAC closure letter for the 1993 Criteria Document for Oxides of Nitrogen addressed to U.S. EPA Administrator Carol M. Browner dated September 30, 1993.

- (7) Wolff, G. T. (1995) CASAC closure letter for the 1995 OAQPS Staff Paper addressed to U.S. EPA Administrator Carol M. Browner dated August 22, 1995.

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