

pre-school age children from reduced exposure to lead. This analysis considered several measures of children's health benefits associated with lead exposure for children up to age six. Avoided neurological and cognitive damages were expressed as changes in three metrics: (1) Overall IQ levels; (2) the incidence of low IQ scores (<70); and (3) the incidence of blood-lead levels above 20 µg/dL. The Agency also assessed changes in the incidence of neonatal mortality from reduced maternal exposure to lead. EPA's methodology for assessing lead-related benefits to children is presented in the EEBA, Chapter 14. The Ohio case study analysis showed that the final rule is expected to yield \$422,000 (2001\$) in annual benefits to children in the State of Ohio from reduced neurological and cognitive damages and reduced incidence of neonatal mortality. On the other hand, the national-level analysis shows that benefits to children from reduced lead discharges are negligible nationwide. As noted in section IX of today's final rule, different findings from these two analyses are likely to be due to insufficient data and a more simplistic approach used in the national level analysis.

Children over age seven are also likely to benefit from reduced neurological and cognitive damages from reduced exposure to lead. Giedd *et al.* (1999) studied brain development among 10- to 18-year-old children and found substantial growth in brain development, mainly in the early teenage years (see DCN 20385, section 8.5.2.3). This research suggests that older children may be hypersensitive to lead exposure, as are children aged 0 to 7.

Additional benefits to children from reduced exposure to lead not quantified in this analysis may include prevention of the following adverse health effects: slowed or delayed growth, delinquent and anti-social behavior, metabolic effects, impaired heme synthesis, anemia, impaired hearing, and cancer (see DCN 20416, section 8.5.2.3).

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (see May 22, 2001; 66 FR 28355) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act*

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's final rule does not establish any technical standards, thus NTTAA does not apply to this rule. It should be noted, however, that this rulemaking requires direct dischargers to monitor for pH, TSS, and O&G (as HEM). All of these analytes can be measured by EPA methods that are specified in the tables at 40 CFR part 136.3.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

##### **1. Executive Order 12898 Requirements**

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 requires that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not exclude persons (including populations) from participation in, deny persons (including populations) the benefits of, or subject persons (including populations) to discrimination under, such programs, policies, and activities because of their race, color, or national origin.

##### **2. Environmental Justice Analysis**

EPA examined whether the final regulation will promote environmental justice in the areas affected by MP&M discharges. EPA analyzed the demographic characteristics of the populations residing in the counties affected by MP&M discharges to determine whether minority and or low-income populations are subject to disproportionately high environmental

impacts. This analysis is based on information on the race, national origin, and income level of populations residing in counties traversed by reaches receiving discharges from the 32 sample MP&M facilities. EPA performed this analysis at the sample level only. The 32 sample facilities discharge to 32 unique reaches and are located in 46 counties in 12 States.

EPA compared demographic data from the 1990 Census for counties traversed by sample MP&M reaches with corresponding State-level data. The demographic characteristics that EPA analyzed include: percent African Americans, percent Native American, Eskimo, or Aleut, percent Asian or Pacific Islander, the percent of the population below the poverty level, and median income. This analysis shows that the socioeconomic characteristics of populations residing in counties abutting MP&M discharge reaches reflect corresponding State averages. As a result, EPA expects that environmental benefits resulting from the MP&M rule will not accrue to populations disproportionately based on race or national origin, and therefore will neither promote nor discourage environmental justice.

EPA also analyzed the human health impacts of the final regulation, including changes in cancer and systemic health risk to subsistence anglers. EPA determined that the reductions in these health risks resulting from the final regulation are negligible (see Chapter 17 of the EEBA for a detailed discussion of environmental justice analyses and alternative regulatory options).

#### *K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective after June 12, 2003.