

designations for 53 waters and secondary contact recreation use designations for 38 waters. A list of these waters may be found in *A Summary of EPA's Use Designation Decisions* contained in the administrative record accompanying this final rule.

For the remaining two waters identified in public comments as potentially rebutting the presumption of primary contact recreation, EPA staff attempted to collect additional information. However, these waters are located entirely on property that had no access points available to the EPA staff that performed the use attainability analyses. Because these waters could not be assessed in a manner consistent with the requirements of 40 CFR 131.10(g), EPA is using the rebuttable presumption to promulgate a use designation of primary contact recreation for these two waters. A list of these waters may be found in *A Summary of EPA's Use Designation Decisions* contained in the administrative record accompanying this final rule. For these 93 waters, as for all waters subject to today's rule, once the State submits and EPA approves use designations for these

waters, EPA will initiate withdrawal of the Federal use designations.

Some of the information provided to EPA in the form of comments was insufficient to rebut the presumption that the waters should be designated for primary contact recreation. Comments in this category were ones that provided no information regarding the name or location of a water body or, contrary to the commenters assertion, included information that indicated that the water was capable of supporting primary contact recreation during at least a portion of the recreation period. In addition, a number of commenters specifically requested that the water body they identified be protected by promulgation of a primary contact recreation use designation. For EPA's specific responses to comments received, see the Response to Comments document contained in the administrative record to this rulemaking.

C. EPA's Final Use Designation Decisions for Specific Stream Segments and Lakes

EPA is today promulgating a primary contact recreation use for 1,056 waters and a secondary contact recreation use for 230 waters. The 1,056 waters for

which EPA is promulgating a primary contact recreation use designation consist of (1) 844 waters for which EPA has not received information sufficient to rebut the presumption of primary contact recreation; and (2) 212 waters for which EPA has received information supporting the waters' designation for primary contact recreation but for which Kansas has not yet adopted that designated use. Once Kansas adopts, and EPA approves, use designations for these waters, EPA will initiate withdrawal of the Federal use designations promulgated for such waters.

EPA is promulgating secondary contact recreation for 230 waters for which either Kansas or EPA performed use attainability analyses consistent with the requirements of 40 CFR 131.10(g) that demonstrated that secondary contact recreation was the appropriate use, but for which Kansas has not adopted a secondary contact recreation use designation. Once the State adopts and EPA approves an appropriate designation for any of these waters, EPA will initiate a withdrawal of the use designations promulgated for such waters. A summary of this information is provided in Table 1.

TABLE 1.—SUMMARY OF EPA'S USE DESIGNATION DECISIONS

	No. of waters in July 2000 proposal	Waters not in final rule					Waters included in final rule			
		UAA supports 2002 use designations	UAA supports 1994 use designation	Information indicates the waters do not exist	Total	Analysis supports SCR, but State has not yet adopted SCR	Analysis supports PCR, but State has not yet adopted PCR	Analysis is insufficient to support State's use designation	Water is presumed PCR due to insufficient or no existing information	Total
Kansas 2002 WQS submittal	225	121	40	0	161	43	16	5	N/A	64
Kansas 2003 UAAs	298	N/A	4	2	6	149	143	N/A	N/A	292
Information received on waters addressed solely by comments and additional information collected by EPA	93	N/A	0	0	0	38	53	N/A	2	93
Insufficient or no information	837	N/A	N/A	N/A	0	N/A	N/A	N/A	837	837
Totals	1,453	121	44	2	166	230	212	844		1,287

Note: As described in Section IV.B., three water body segments contained in the July 2000 proposal have been combined with other segments, resulting in a total of 1,453 waters.

SCR—secondary contact recreation.
PCR—primary contact recreation.

For the waters where EPA is promulgating either primary contact recreation or secondary contact recreation use designations in today's final rule, the State's currently effective water quality criteria for those designated uses apply. The currently effective fecal coliform water quality criterion for CWA purposes adopted by Kansas for the protection of primary contact recreation is a geometric mean of 200 organisms per 100 milliliters from April 1 through October 31, and

2,000 organisms per 100 milliliters from November 1 through March 31. The currently effective water quality criterion for the protection of secondary contact recreation is 2,000 organisms per 100 milliliters all year.

If, in the future, the State adopts and EPA approves revisions to its water quality criteria for the protection of primary and secondary contact recreation uses, those water quality criteria will be effective for CWA purposes and will apply, as appropriate,

to the waters for which EPA is promulgating use designations today.

In addition to the recreation use designations being promulgated today, EPA is also promulgating the State's expected aquatic life use designation for one stream segment, Whiskey Creek, that the State designated for a restricted aquatic life use in 1994 without an adequate supporting UAA. Because the State assigns the expected aquatic life use category to a majority of its surface waters, and EPA received no additional