

geographic distribution, using a large amount of State occurrence data that are generally indicative of national occurrence. The UCM data form part of the Agency's basis for its estimates of national occurrence since these data provide occurrence information for several unregulated contaminants. The NIRS data provide a statistically representative sample of the national occurrence of many other unregulated and regulated inorganic contaminants in ground water community water supplies (CWSs).

EPA also employed other State drinking water data, use and environmental release information (e.g., EPA's Toxic Release Inventory (TRI), academic and private sector publications), as well as ambient water quality data (i.e., source water existing in surface waters and aquifers before extraction and treatment as drinking water), to augment the UCM drinking water data and to evaluate the likelihood of contaminant occurrence. EPA included, when available, data from the U.S. Geological Survey's (USGS) National Water Quality Assessment program.

A detailed discussion of the data collected and analyses for each contaminant can be found in the respective regulatory determination support document. The regulatory determination support documents (USEPA 2001a-g) are available in the EPA Water Docket.

The underlying data and analysis supporting the findings used by the Agency to make the regulatory determinations are summarized in the June 2002 notice (USEPA 2002a).

IV. Summary of Public Comments and the Agency's Responses on the CCL Regulatory Determination Process

The comment period on the June 3, 2002, notice ended on August 2, 2002. EPA received 15 comments on the preliminary regulatory determinations for the nine CCL contaminants published by EPA in the June 2002 notice (USEPA 2002a). Four comments were received from water systems and related associations, seven from industry groups, two from environmental advocacy groups, one from a State agency and one from a State-related association. Although most commenters generally approved of EPA's determination not to regulate any new contaminants at this time, some commenters expressed concerns about the process associated with EPA's regulatory determinations for these nine contaminants, as well as with CCL activities not specifically related to the preliminary determinations.

A majority of the comments were focused on five over-arching topic areas:

1. Some commenters expressed concern over the transparency of the CCL decision-making process.

2. Several industry groups expressed a concern that the health effects assessments were too conservative.

3. Several commenters expressed concern with EPA's progress in filling research gaps related to the CCL and encouraged EPA to publicly track research needs and progress on remaining CCL contaminants.

4. The majority of commenters generally approved of EPA's determination not to regulate any new contaminants at this time. However, one commenter questioned the appropriateness of EPA's decisions not to regulate any of the nine priority contaminants.

5. Several comments were received regarding contaminants on the CCL for which draft regulatory determinations were not included in the June 2002 notice, including perchlorate and methyl-t-butyl ether (MTBE).

A complete copy of the public comments and the Agency's responses are included in the Docket for today's action. The remainder of this section discusses the five key topic areas identified by commenters in response to the June 2002 CCL regulatory determination notice (USEPA 2002a).

1. Lack of Transparency of Regulatory Determination Approach

Comment Summary: Several commenters expressed a concern about the "lack of transparency" in the regulatory determination approach used by the Agency for the June 2002 notice. Most of those commenters suggested that EPA did not provide an adequate explanation for the reduction in the number of the priority contaminants from twenty to nine since the publication of the first CCL in March 1998 (USEPA 1998). These commenters suggested that the Agency needs to provide better justification regarding the reasons for excluding the twelve contaminants listed in the March 1998 CCL from the regulatory determination process.

Several commenters suggested that this regulatory determination process approach does not provide for enough participation from outside groups for the development of non-regulatory strategies. These commenters suggested that the Agency should allow for more meaningful public involvement in the regulatory determination process. One commenter stated that, given the Agency's analysis of occurrence and health effects data over several years,

the 60-day comment period was not adequate to allow "detailed analysis by interested stakeholders."

Other commenters, however, observed that the CCL regulatory determination approach taken by EPA was "reliably consistent" with the basic charge of the SDWA and the NDWAC workgroup recommendations. Several commenters noted that, by EPA following the protocol recommended by the NDWAC Work Group, stakeholders were assured that the Agency used the "best-available, peer-reviewed science" in these determinations.

Agency Response: EPA developed a consistent regulatory determination approach for evaluating CCL contaminants that followed NDWAC's recommended protocol for health effects and occurrence analysis. The regulatory determination approach for each contaminant on the list included an evaluation of the adequacy of current analytical and treatment methods, the best available peer-reviewed data on health effects, and an occurrence data set of about seven million contaminant occurrence data points.

By using this approach, EPA determined that, at the time of the June 2002 notice (USEPA 2002a) of preliminary regulatory determinations there was not sufficient information to support a regulatory determination on twelve of the twenty priority contaminants. As noted previously, the CCL-contaminant, sodium, was moved to the list of regulatory determination priorities to allow an update of the Agency's position on the issue of sodium in drinking water.

The NDWAC, which is comprised of representatives from the general public, State and local agencies, and private groups concerned with drinking water safety, was convened to provide input during the regulatory determination process. Throughout the regulatory determination process, EPA's approach has been to maintain a strong partnership with stakeholders and involve them to the maximum extent possible, thereby helping to ensure that stakeholders understand the regulatory determination process and provide valuable input.

The Agency agrees that a meaningful opportunity for discussions with stakeholders is an important component of the CCL Regulatory Determination process. The Agency utilized a variety of mechanisms to involve stakeholders in the process. These included two broad-based stakeholder meetings, one in November 1999 and one in July 2002. Members of the public also were invited to attend the three sessions of the NDWAC Work Group in the Spring/