

today's proposal. The Agency is currently exploring the development of ambient water quality criteria for *Cryptosporidium*, but such criteria are not available at this time and are not included in today's proposal.

In addition to the Tribal representative on the Advisory Committee, EPA conducted outreach and consultation with Tribal representatives on a number of occasions regarding the LT2ESWTR. EPA presented the LT2ESWTR at the following forums: the 16th Annual Consumer Conference of the National Indian Health Board, which included over 900 representatives of Tribes across the nation; the annual conference of the National Tribal Environmental Council, at which over 100 Tribes were represented; and the 1999 EPA/Inter-Tribal Council of Arizona, which included representatives from 15 Tribes. EPA also sent the presentation materials used in the first two meetings and meeting summaries to over 500 Tribes and Tribal organizations.

Fact sheets describing the requirements of the LT2ESWTR and requesting Tribal input were distributed at an annual EPA Tribal meeting in San Francisco and at a Native American Water Works Association meeting in Scottsdale, Arizona. EPA also worked through its Regional Indian Coordinators and the National Tribal Operations Committee to raise awareness of the development of the proposed rule. EPA mailed all Federal Tribes LT2ESWTR fact sheets in November 2000. The Tribal representative to the Advisory Committee also presented the Stage 2 Agreement in Principle prior to signature in at least one political forum for various Tribes not affiliated with AIPC.

EPA held a teleconference in January 2002 with 12 Tribal representatives and four Regional Tribal Program Coordinators. Prior to the teleconference, EPA sent invitations to all Federal Tribes, along with a fact sheet explaining the LT2ESWTR.

Through this consultation, Tribal representatives expressed concern about implementing new regulations without additional funding sources. However, they also stated that the LT2ESWTR would have a benefit, and asserted that people served by small systems should receive equivalent public health protection. Questions were asked regarding the impact of the rule (e.g., number of Tribal surface water systems) and the date for finalizing the rule. The Tribal representative to the M-DBP Advisory Committee advocated that risk mitigation plans for uncovered finished

water storage facilities should account for cultural uses by Tribes.

In response to the concerns expressed by Tribal representatives, EPA noted that the LT2ESWTR proposal is designed to minimize costs by targeting higher risk systems, and includes other provisions, described earlier, to reduce burden. Moreover, the projected benefits of the rule substantially exceed costs. EPA also explained that capital projects related to the rule would be eligible for Federal funding sources, such as the Drinking Water State Revolving Fund, due to the health risks associated with *Cryptosporidium*. The LT2ESWTR Economic Analysis (USEPA 2003a) provides an analysis of the impact of the LT2ESWTR on Tribes. EPA has identified 67 Tribal water systems that would be subject to the LT2ESWTR.

In addition to these direct consultations with State, local, and Tribal governments, EPA posted a pre-proposal draft of the LT2ESWTR proposal on an EPA Internet site (<http://www.epa.gov/safewater/>) in November 2001. EPA received comments on this pre-proposal draft from ASDWA and six States, several public water systems owned by local governments, as well as private water systems, laboratories, and other stakeholders. Among the concerns raised by commenters representing State and local governments were the following: early implementation of monitoring by large systems; flexibility for States in awarding treatment credits to different *Cryptosporidium* control technologies; and the added burden of the rule on systems and States.

EPA has addressed these concerns in developing the LT2ESWTR proposal. As described in section IV.J, EPA is planning to directly implement the large system monitoring requirements that occur during the first 2.5 years after promulgation. The planned approach is similar to that used for the UCMR, including an electronic data reporting system for storing monitoring results and tracking compliance. With this approach, States will be able to access data reported by their systems, thereby allowing States to exercise oversight of their systems during early implementation if they chose. However, EPA will take primary responsibility for providing technical assistance to systems and assessing compliance with monitoring requirements.

In regard to treatment credit for *Cryptosporidium* control technologies, the Agency has made substantial efforts to ensure that the criteria in today's proposal are based on the best available data. EPA has worked in partnership with industry and researchers to gather information, and proposed criteria for

several microbial toolbox options reflect comments by the Science Advisory Board. In addition, today's proposal gives flexibility to States by allowing them to award different levels of *Cryptosporidium* treatment credit to their systems based on site-specific demonstrations.

With respect to the burden the LT2ESWTR would place on water systems and States, EPA has, as described previously in this preamble, attempted to minimize overall costs under the proposed LT2ESWTR. This is achieved through risk-targeting of additional treatment requirements, allowing most small systems to avoid *Cryptosporidium* monitoring costs through *E. coli* screening, and facilitating the use of lower cost treatment technologies like UV.

In summary, EPA has concluded that the proposed option for the LT2ESWTR is needed to provide a significant public health benefit by reducing exposure to *Cryptosporidium*. While many public water systems achieve adequate control of *Cryptosporidium*, additional treatment should be required for filtered systems with elevated source water pathogen levels and for unfiltered systems. The availability of improved analytical methods allows additional treatment requirements to be targeted to higher risk systems, and the development of technologies like UV makes it feasible for systems to provide additional treatment. The monetized benefits of today's proposal significantly exceed total costs, and EPA believes there will be substantial unquantified benefits as well.

f. *Regulatory alternatives considered.* As required under section 205 of UMRA, EPA considered several regulatory alternatives to address systems at risk for contamination by microbial pathogens, specifically including *Cryptosporidium*. A detailed discussion of these alternatives can be found in section VI of the preamble and also in the Economic Analysis for the LT2ESWTR (USEPA 2003a).

g. *Selection of the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.* Among the regulatory alternatives considered for the LT2ESWTR, as described in section VI, the Agency believes the proposed alternative is the most cost-effective that achieves the objectives of the rule. The objective of the LT2ESWTR is to reduce risk from *Cryptosporidium* and other pathogens in systems where current regulations do not provide sufficient protection.

The Agency evaluated a less costly and less burdensome alternative.