

However, this alternative would provide no benefit to several thousand consumers who, under the proposed alternative, would receive benefits that most likely exceed their costs, based on Agency estimates. This is illustrated in the LT2ESWTR Economic Analysis (USEPA 2003a). By failing to reduce risk for consumers where additional treatment requirements would be cost-effective, the less costly alternative does not appear to achieve the objectives of the LT2ESWTR.

The other alternatives considered by the Agency achieve the objectives of the rule, but are more costly, more burdensome, and potentially less cost-effective. The proposed alternative targets additional treatment requirements to systems with the highest vulnerability to *Cryptosporidium*, and maximizes net benefits under a broad range of conditions (USEPA 2003a). Consequently, the Agency has found the proposed alternative to be the most cost-effective among those that achieve the objectives of the rule.

### 3. Impacts on Small Governments

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's rule is not subject to the requirements of section 203 of UMRA. As described in section VII.C, EPA has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. Estimated annual expenditures by small systems for the LT2ESWTR range from \$7.9 to \$13.0 million at a 3% discount rate and \$8.0 to \$13.0 million at a 7% discount rate. While the treatment requirements of the LT2ESWTR apply uniformly to both small and large public water systems, large systems bear a majority of the total costs of compliance with the rule. This is due to the fact that large systems treat a majority of the drinking water that originates from surface water sources.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government."

Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation.

EPA has concluded that this proposed rule may have federalism implications, because it may impose substantial direct compliance costs on State or local governments, and the Federal government will not provide the funds necessary to pay those costs. The proposed rule may result in expenditures by State, local, and Tribal governments, in the aggregate of \$100 million or more in any one year. Costs are estimated to range from \$73 to \$111 million at a 3 percent discount rate and \$81 to \$121 million using a 7 percent discount rates based on the median distribution modeled from ICRSSL and Information Collection Rule *Cryptosporidium* occurrence data sets. Accordingly, EPA provides the following federalism summary impact statement as required by section 6(b) of Executive Order 13132.

EPA consulted with representatives of State and local officials early in the process of developing the proposed regulation to permit them to have meaningful and timely input into its development. Section VII.D.2.e describes EPA's consultation with representatives of State and local officials. This consultation included State and local government representatives on the Stage 2 M-DBP Federal Advisory Committee, the representatives from small local governments to the SBAR panel, a meeting with representatives from ASDWA, NGA, NCSL, ICMA, NLC, the County Executives of America, and health departments, consultation with Tribal governments at four meetings, and comments from State and local governments on a pre-proposal draft of the LT2ESWTR.

Representatives of State and local officials were generally concerned with ensuring that drinking water regulations are adequately protective of public health and that any additional regulations achieve significant health benefits in return for required expenditures. They were specifically concerned with the burden of the proposed rule, both in cost and technical complexity, giving flexibility

to systems and States, balancing the control of microbial risks and DBP risks, funding for implementing new regulations, equal protection for small systems, and early implementation of monitoring by large systems.

EPA has concluded that the proposed LT2ESWTR is needed to reduce the public health risk associated with *Cryptosporidium* in drinking water. Estimated benefits for the rule are significantly higher than costs. Further, as described in this section and in section VII.D.2.e, the Agency believes that today's proposal addresses many of the concerns expressed by representatives of government officials.

Under the proposed LT2ESWTR, expenditures for additional treatment are targeted to the fraction of systems with the highest vulnerability to *Cryptosporidium*, thereby minimizing burden for the majority of systems that will not be required to provide additional treatment. The microbial toolbox of compliance options will provide flexibility to systems in meeting additional treatment requirements, and States have the flexibility to award treatment credits based on site-specific demonstrations. Disinfection profiling provisions are intended to ensure that systems do not reduce microbial protection as they take steps to reduce exposures to DBPs.

The LT2ESWTR achieves equal public health protection for small systems. However, the use of *E. coli* monitoring by small systems as a screening analysis to determine the need for *Cryptosporidium* monitoring will reduce monitoring costs for most small systems. Capital projects related to the rule would be eligible for funding from the Drinking Water State Revolving Fund, which includes specific funding for small communities. EPA is planning to support the initial monitoring by large systems that takes place within the first 2.5 years after promulgation. This will substantially reduce the burden on States associated with early implementation of monitoring requirements.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA