

discharge to the affected water bodies because location information is not available in EPA's PCS database. Therefore, EPA's analysis includes a universe of 285 permitted facilities (84 majors and 201 minors).

To identify facilities potentially affected by the proposed rule, EPA assumed that only facilities that have the potential to affect (*i.e.*, cause an increase in fecal coliform levels) the Subject Waterbodies for which EPA is designating a new primary contact recreation use may be affected by the proposed rule. EPA identified these facilities by overlaying PCS facilities with the potentially affected waters and their tributaries currently designated for a Class SC use using GIS software. EPA assumed that only wastewater treatment plants or military facilities with similar effluent characteristics (*i.e.*, facilities having the potential to discharge fecal coliforms) would potentially be affected by the proposed rule. Table 1 summarizes the universe of potentially affected facilities by type and category.

TABLE 1.—ESTIMATED NUMBER OF FACILITIES POTENTIALLY AFFECTED BY THE PROPOSED RULE

Category	Number of facilities		
	Major	Minor	Total
Military .....	1	2	3
Municipal .....	19	10	29
Total .....	20	12	32

#### B. Method for Estimating Potential Compliance Costs

EPA identified a total of 32 facilities (20 majors and 12 minors) that may be potentially affected by the proposed primary contact designated use. EPA evaluated a sample of facilities based on discharger type and category from this group for potential cost impacts associated with the proposed rule. For these sample facilities, EPA evaluated available effluent data from its PCS database to determine the potential controls that may ultimately be needed as a result of the proposed rule.

EPA estimated on a case-by-case basis the most cost-effective control strategy for each sample facility to achieve compliance with the proposed criteria. EPA assumed that projected effluent limits for fecal coliform would be applied as criteria end-of-pipe (a monthly geometric mean of 200 colonies/100 mL and not more than 20% of samples exceeding 400 colonies/100 mL) because the facilities' current permits apply the current criteria in the same manner. EPA assumed that a

sample facility would incur costs if average monthly effluent concentrations (or existing permit limit, whichever is smaller) indicate that the facility would not be in compliance with the most stringent criterion.

EPA evaluated each facility's potential compliance with projected permit limits based on available monthly average fecal coliform values from the Agency's PCS database. If monthly average values are not available, EPA evaluated potential compliance based on maximum monthly values. EPA determined potential compliance with the projected limit for each sample facility based on the relative magnitude of the maximum average monthly values, the pattern of occurrence of such values (*i.e.*, when maximum values occurred), and current treatment performance characteristics (*e.g.*, BOD and TSS concentrations, compliance with current permit). For facilities exceeding their current limits, EPA assumed that facilities would install the necessary controls for compliance with current standards, and would incur costs for additional treatment process optimization (*e.g.*, increase chlorine dose, improve mixing conditions, increase contact time) for compliance with the projected limit. For facilities that are in compliance with their current permit limits but would not comply with the projected limit, EPA also assumed that process optimization of their chlorination process may be necessary for compliance with the projected limit.

#### C. Results

EPA estimated the potential costs associated with the proposed primary contact designated use for the Subject Waterbodies. Based on evaluation of the sample of potentially affected facilities, EPA estimated that the potential total annual cost associated with the proposed rule is \$2.7 million.

### VI. Statutory and Executive Order Reviews

#### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy,

productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

#### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). It does not include any information collection, reporting, or recordkeeping requirements.

Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant