



# Federal Register

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**Monday,  
July 7, 2003**

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**Part III**

## **Environmental Protection Agency**

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**40 CFR Part 131**

**Water Quality Standards for Kansas; Final  
Rule**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 131**

[FRL-7522-5]

RIN-2040-ZA0C

**Water Quality Standards for Kansas**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is promulgating a primary contact recreation use designation for 1,056 waters, an expected aquatic life use designation for one of these waters, and a secondary contact recreation use designation for 230 waters in the State of Kansas to replace the use designations for those waters that EPA disapproved in 1998. EPA is promulgating these final water quality standards for the State of Kansas at this time pursuant to a court order requiring the Administrator to sign a final rule by June 30, 2003. Once the State of Kansas submits the necessary analyses and any corresponding changes to its water quality standards for specific waters and EPA approves that submission, EPA will initiate a rulemaking to withdraw this regulation for those waters.

**DATES:** This regulation is effective August 6, 2003.

**ADDRESSES:** The public record for this rulemaking has been established, is located at EPA Region 7, Information Resource Center, 901 North 5th Street, Kansas City, Kansas 66101, and can be reviewed between 8 a.m. and 4:30 p.m. Central Time, Monday through Friday, excluding legal holidays. For further information regarding access to the docket materials, call (913) 551-7241. You may have to pay a reasonable fee for copying.

**FOR FURTHER INFORMATION CONTACT:** For information concerning today's final rule, contact Mr. Martin Kessler, Public Affairs Specialist at [r7actionline@epa.gov](mailto:r7actionline@epa.gov) or at U.S. EPA Region 7, Office of External Programs, 901 North 5th Street, Kansas City, Kansas, 66101 (Telephone: 913-551-7003).

**SUPPLEMENTARY INFORMATION:**

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**I. Potentially Affected Entities**

Citizens concerned with water quality in Kansas may be interested in this rulemaking. Entities discharging pollutants to waters of the United States in Kansas could be indirectly affected by this rulemaking because water quality standards are used in determining water quality-based effluent limitations included in National Pollutant Discharge Elimination System (NPDES) permits. Categories and entities that may indirectly be affected include:

Category	Examples of potentially affected entities
Industry .....	Industries discharging pollutants to surface waters in Kansas.

Category	Examples of potentially affected entities
Municipalities ....	Publicly-owned treatment works discharging pollutants to surface waters in Kansas.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding NPDES entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in this table could also be affected. To determine whether your facility may be affected by this action, you should carefully examine today's rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

EPA notes that nothing in this rulemaking—which establishes “primary contact recreation” as a Clean Water Act (CWA) use designation for 1,056 waters, or “expected aquatic life use” for one of these waters, and “secondary contact recreation” for 230 waters—affects the private property rights of landowners to deny public access to their own property. Use designations, such as those codified today, help establish water quality goals for particular water bodies; they do not create or abridge property rights regarding access to such waters. To illustrate this point, EPA notes that most of these waters had been subject to the State's default “secondary contact recreation” use designation until November 2001 (when the State removed this provision and EPA approved that action). That use designation, which commonly refers to recreational wading and other uses not likely to result in full-body immersion, had applied to these waters since at least 1994, and in many cases for years before that. However, EPA is not aware that any individual has interpreted that State use designation (made solely for CWA purposes) as official government sanction to enter private property for the purpose of wading in the streams so designated. Consequently, EPA has no reason to believe that this situation will change as a result of EPA's use designations today. The only difference between the State action and EPA's action today is the type of use designated, not whether the waters are subject to a use designation in the first instance.

## II. Background

### A. What Are the Statutory and Regulatory Requirements Relevant to This Action?

Section 303(c) of the Clean Water Act (CWA), 33 U.S.C. 1313(c), requires States and authorized Tribes to adopt water quality standards for waters of the United States within their applicable jurisdictions. Section 303(c) and EPA's implementing regulations at 40 CFR part 131 require State water quality standards to include the designated use or uses to be made of the water, the criteria necessary to protect those uses, and an antidegradation policy. States are also required to review their water quality standards at least once every three years and, if appropriate, revise or adopt new standards. 33 U.S.C. 1313(c)(1). States are required to submit the results of these reviews to EPA for approval. 33 U.S.C. 1313(c)(2)(A). Section 303(c)(4) of the CWA requires EPA to promulgate water quality standards when necessary to replace disapproved State water quality standards.

Section 101(a)(2) of the CWA establishes as a national goal "water quality which provides for the protection and propagation of fish, shellfish, and wildlife and \* \* \* recreation in and on the water," wherever attainable. This national goal is commonly referred to as the "fishable/swimmable" goals of the CWA. (Hereafter, the fishable/swimmable goals are referred to as CWA section 101(a) goal uses.) Section 303(c)(2)(A) requires State water quality standards to "protect the public health or welfare, enhance the quality of water and serve the purposes of this [Act]." Further, States are required to take into consideration the waters' use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also to take into consideration their use and value for navigation. 33 U.S.C. 1313(c)(2)(A). States are free to designate more specific uses (e.g., cold water aquatic life), or to designate uses not mentioned in the CWA, with the exception of waste transport or waste assimilation, which is not an acceptable use. 40 CFR 131.10(a). EPA's regulations at 40 CFR 131.10 describe the process States must follow and the analyses States must conduct prior to designating any uses that do not include the 101(a) goal uses.

### B. What Actions Have Kansas and EPA Taken Leading to Today's Action?

On October 31, 1994, Kansas submitted a complete set of water

quality standards to EPA for review and approval. As part of this submission, it also submitted the *Kansas Surface Water Register*, which contains the listing of all streams, lakes, and wetlands classified under the State's water quality standards, individual water body locational data and all designated uses for each stream segment, wetland, and lake. The 1994 *Kansas Surface Water Register*, adopted by reference at K.A.R. 28-16-28d(c)(2) [subsequently renumbered as K.A.R. 28-16-28d(d)(2)], divided each stream segment in the State's 1985 water quality standards into multiple parts and contained use designations for each newly identified segment. This greatly expanded the number of stream segments with water body-specific use designations.

In a February 19, 1998, letter from EPA Region 7 to the Secretary of the Kansas Department of Health and Environment (KDHE), EPA reviewed and approved in part and disapproved in part all of the State's new or revised standards. As part of that action, EPA disapproved the absence of a primary contact recreation use designation for more than 1,400 water bodies and the lack of an aquatic life use designation for one of those water bodies. The vast majority of those waters were designated for secondary contact recreation, *i.e.*, wading, by operation of the State's provision that provided a default secondary contact recreation use for waters that had no other recreation use designation. The State had provided no documentation indicating that a primary contact recreation use was not attainable, even though such documentation is required under 40 CFR 131.10(g) and (j). EPA therefore disapproved those use designations as being inconsistent with EPA's regulations.

As a part of this action, EPA also disapproved the following provisions of Kansas' 1994 water quality standards:

- The State's antidegradation policy regarding protection of Outstanding National Resource Waters (also commonly referred to as Tier 3 waters);
- Provisions governing discharges from waste stabilization ponds;
- Disinfection requirements;
- Provisions addressing the adoption of water quality criteria for the protection of the State's domestic water supply use;
- Several water quality criteria;
- The State's water quality standards implementation procedures;
- The State's antidegradation implementation procedures;
- The State's water quality standards provisions for assumed stream design

flows in applying water quality criteria; and

- Provisions relating to waters with effluent-created habitat.

In June 1999, Kansas completed a triennial review of its water quality standards. The State adopted new and revised water quality standards on June 29, 1999, which became effective under State law on June 30, 1999. Kansas submitted these standards for EPA review and approval on August 10, 1999, as required under CWA section 303(c)(2)(A). In its submission, KDHE corrected several provisions disapproved by EPA in its February 1998 disapproval letter to make them consistent with the CWA. In addition, Kansas revised use designations for several water bodies and corrected errors in its 1994 submission. On January 19, 2000, EPA approved these corrections and revised use designations. EPA also identified, in its January 2000 letter, one stream segment in Kansas that is located wholly within Indian country, over which Kansas had not demonstrated jurisdiction for CWA purposes.

On July 3, 2000, EPA proposed to promulgate Federal water quality standards for the disapproved items not resolved by the State's 1999 revisions (see section III, below). EPA ultimately proposed to promulgate primary contact recreation use designations for 1,456 stream segments and lakes. EPA also proposed to promulgate the State's expected aquatic life use designation for one of those stream segments.

## III. What Federal Water Quality Standards Did EPA Propose in July 2000?

On July 3, 2000, EPA proposed water quality standards for the State of Kansas. 65 FR 41216 (July 3, 2000). Specifically, EPA proposed: (1) An aquatic life use for one stream segment and a primary contact recreation use for 1,292 stream segments and 164 lakes; (2) a provision stating that all discharges to stream segments for which continuous flow is sustained primarily through the discharge of treated effluent shall protect the State's designated uses; (3) use of specific design flows (7Q10, 4B3), or other scientifically defensible design flows recommended by EPA to implement the State's chronic aquatic life criteria, and use of specific design flows (1Q10, 1B3), or other scientifically defensible design flows recommended by EPA to implement the State's acute aquatic life criteria; and (4) implementation procedures for the State's antidegradation policy to determine whether to allow a lowering of surface water quality by point sources

of pollution where nonpoint sources also contribute the pollutant of concern to that body of water.

Under its discretionary authority at CWA section 303(c)(4)(B) to address State water quality standards that the Administrator determines are inconsistent with the Clean Water Act, EPA also proposed two other water quality standards: numeric human health criteria for alpha- and beta-endosulfan, and a provision stating that water quality standards in Kansas apply to all privately owned surface waters in Kansas that are waters of the United States.

On October 13, 2000, KDHE submitted revised water quality standards to EPA for its review and approval. This submission contained, among other things, new or revised water quality standards addressing alpha-endosulfan and beta-endosulfan water quality criteria covered by EPA's July 2000 proposal. EPA approved these provisions by letter dated February 2, 2001, thereby removing the need for Federal water quality standards for this issue.

On September 9, 2001, the KDHE submitted revised water quality standards to EPA for its review and approval. This submission contained new or revised water quality standards addressing the following matters covered by EPA's July 2000 proposal: effluent-created habitat, stream design flow, procedures for implementing the State's antidegradation policy, and the applicability of water quality standards to publicly held and privately held classified ponds. Consequently, these new and revised State water quality standards addressed all but one of the remaining issues identified in EPA's 1998 disapproval decision.

In addition, as part of this submission the State removed its provision applying a default use designation of secondary contact recreation and adopted a provision that made use designations subject to the results of use attainability analyses. As a result of this action, all but two of the waters contained in EPA's proposal—which previously had been subject to the State's default secondary contact recreation use—were temporarily no longer subject to any recreation use designation. Under the new provision, which EPA approved, all use designations are to be based on a use attainability analysis conducted by or approved by the State.

By letter dated November 9, 2001, EPA approved the State's September 9, 2001, submission. EPA's approval of new or revised standards in 2000 and 2001 eliminated the need for a Federal promulgation regarding the previously

disapproved provisions with the exception of EPA's disapproval of use designations for 1,456 water bodies.

On December 10, 2002, Kansas submitted to EPA the results of its triennial review and supporting analyses. Part of these revisions included use changes and use attainability analyses for waters subject to EPA's July 2000 proposal. As discussed in section IV.C., this submission and several additional actions have reduced the number of water bodies that are subject to EPA's final action today.

#### **IV. What Federal Water Quality Standards Is EPA Promulgating Today?**

In today's action, EPA is promulgating a primary contact recreation use designation for 1,056 waters, an expected aquatic life use for one of these waters, and a secondary contact recreation use designation for 230 waters, thereby addressing the last remaining matter subject to EPA's 1998 disapproval decision. Today's action is taking place pursuant to a 90-day schedule ordered by the U.S. District Court for the District of Kansas in *Kansas Natural Resource Council, et al. v. Whitman*, No. 00-2555-GTV (March 31, 2003). The court's decision and the basis for EPA's decisions are described below.

##### *A. Background*

As described in the previous section, CWA section 101(a)(2) establishes as a national goal "water quality which provides for the protection and propagation of fish, shellfish, and wildlife and \* \* \* recreation in and on the water," wherever attainable (*i.e.*, the "fishable/swimmable" goal). Section 303(c)(2)(A) requires State water quality standards to "protect the public health or welfare, enhance the quality of water and serve the purposes of this [Act]." EPA's regulations at 40 CFR part 131 interpret and implement these CWA provisions by requiring that water quality standards provide for CWA section 101(a) goal uses unless those uses have been shown to be unattainable, effectively creating a rebuttable presumption of attainability, *i.e.*, that a default designation of CWA section 101(a) goal uses should apply. The mechanism in EPA's regulations used to rebut this presumption is a use attainability analysis.

Under 40 CFR 131.10(j), States are required to conduct a use attainability analysis (UAA) whenever the State designates or has designated uses that do not include the CWA section 101(a) goal uses, when the State wishes to remove CWA section 101(a) goal uses,

or when it adopts subcategories of uses that require less stringent criteria. Uses are considered by EPA to be attainable, at a minimum, if the uses can be achieved (1) when effluent limitations under section 301(b)(1)(A) and (B) and section 306 are imposed on point source dischargers, and (2) when cost-effective and reasonable best management practices are imposed on nonpoint source dischargers. See 40 CFR 131.10(d). EPA's regulations at 40 CFR 131.10 list grounds upon which to base a finding that attaining the designated use is not feasible, as long as the designated use is not an existing use. Existing uses are defined by EPA's regulations as "those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards." 40 CFR 131.3(e). A UAA is defined in 40 CFR 131.3(g) as a "structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors." In a UAA, the physical, chemical and biological factors affecting the attainment of a use are evaluated through a water body survey and assessment. Guidance on water body surveys and assessment techniques is contained in the *Technical Support Manual, Volumes I-III: Water Body Surveys and Assessments for Conducting Use Attainability Analyses*. Additional guidance is provided in the *Water Quality Standards Handbook: Second Edition* (EPA-823-B-94-005, August 1994). Guidance on economic factors affecting the attainment of a use is contained in the *Interim Economic Guidance for Water Quality Standards: Workbook* (EPA-823-B-95-002, March 1995).

EPA regulations effectively establish a "rebuttable presumption" that CWA section 101(a) goal uses are attainable and therefore should apply to a water body unless it is affirmatively demonstrated that such uses are not attainable. EPA adopted this approach in order to help achieve the national goal articulated by Congress that, "wherever attainable," water quality should provide for the "protection and propagation of fish, shellfish and wildlife" and for "recreation in and on the water." 33 U.S.C. 1251(a)(2). While facilitating achievement of Congress' goals, the "rebuttable presumption" approach preserves States' paramount role in establishing water quality standards by weighing any available evidence regarding the attainable uses of a particular water body. The rebuttable presumption approach does not restrict

the States' discretion to determine that CWA section 101(a) goal uses are not, in fact, attainable in a particular case. Rather, if the water quality goals articulated by Congress are not to be met in a particular water body, the regulations simply require that such a determination be based upon a "structured scientific assessment" of use attainability. See 40 CFR 131.3(g) (defining use attainability analysis).

EPA believes that the rebuttable presumption policy reflected in these regulations is an essential foundation for effective implementation of the CWA as a whole. The "use" of a water body is the most fundamental articulation of its role in the aquatic and human environments, and the water quality protections established by the CWA follow from the water's designated use. If a use lower than a CWA section 101(a) goal use is designated based on inadequate information or superficial analysis, water quality-based protections that might have made it possible for the water to achieve the goals articulated by Congress in CWA section 101(a) may not be put in place.

EPA seeks, through its oversight under section 303(c) of the Act, to ensure that any State's decision to forgo protection of a water body's potential to support CWA section 101(a) goal uses results from an appropriately "structured" scientific analysis of use attainment. Where EPA concludes that the State failed to adequately justify a use designation lower than a CWA section 101(a) goal use designation, EPA disapproves the use designation. In some cases, the State may decide to revise its use classifications to create additional designated uses that are also protective of the CWA section 101(a) goal uses. In other cases, the State may decide to conduct a more thorough analysis of use attainability sufficient to rebut the fishable/swimmable presumption reflected in the regulations. Where a State does neither, however, federally promulgated CWA section 101(a) goal uses will ensure the water quality goals of the Act are recognized.

In the July 2000 proposal, EPA requested data and information that could further support or refute the attainability of EPA's proposed designated uses. EPA evaluated all data and information submitted by commenters. For EPA's specific responses to comments received, see the Response to Comments document contained in the administrative record to this rulemaking. A general discussion of EPA's evaluation of this data and information is described in section IV.B.3.

In response to EPA's request for comments on EPA's proposed designated uses, EPA received several comments questioning EPA's use of the rebuttable presumption for assigning designated uses. Specifically, several commenters asserted that sufficient information exists in the administrative record to confirm that, as a class, the undesignated waters would not be expected to sustain either primary contact recreation or aquatic life uses and, as such, that this information refutes EPA's presumption that primary contact recreation and aquatic life uses are appropriate. EPA disagrees that information of such a general nature constitutes the type of structured scientific assessment required by EPA's regulations to rebut the presumption. EPA believes that use attainability analyses should be based on data applicable to individual waters. Indeed, numerous commenters asserted that use designation decisions should be made on a case-by-case basis, taking into account local considerations. A UAA is a mechanism to accomplish this. Where water body-specific data and information have been submitted by the State, provided by commenters, or collected by EPA, EPA has considered that data and information to determine whether those waters should be excluded from today's rulemaking. See section IV.B. for a further discussion of EPA's analysis of this data and information.

Other commenters asserted that the use of the "rebuttable presumption" approach EPA employed to propose use designations is contrary to law. EPA disagrees. As described above, EPA believes that using the "rebuttable presumption" approach is supported by sections 101(a) and 303(c) of the Clean Water Act. Further, EPA's longstanding interpretation, as reflected in its 1983 regulations, is that the purposes of the Act are better served by requiring a justification for designating uses less than fishable/swimmable rather than demanding an affirmative showing of attainability before requiring a fishable/swimmable use designation. See 40 CFR 131.10. Moreover, the court order resulting in today's action, *Kansas Natural Resource Council, et al. v. Whitman*, No. 00-2555-GTV (D. Kansas, March 31, 2003), specifically considered EPA's rebuttable presumption approach and held that EPA must employ the concept in its promulgation of water quality standards for the State of Kansas. The court recognized that, for many of these waters, the order's 90-day schedule could result in water bodies being given a primary contact recreation

designation when a subsequently performed use attainability analysis might rebut such a designation. However, the court stated, "Unless and until unattainability is demonstrated as specified by the regulations, the purpose of the Clean Water Act is best served by protecting the waters as if they are fishable/swimmable."

Lastly, several commenters suggested that under EPA's rebuttable presumption approach, secondary contact recreation is an appropriate presumption since it is one of the goal uses of the Clean Water Act. While EPA agrees that secondary contact recreation is indeed one of the Clean Water Act's goals, EPA disagrees that it supplants primary contact recreation for purposes of the rebuttable presumption. Section 101(a)(2) specifically calls for the protection of recreation in and on the water. In other words, the statute contemplates that both recreation uses will be protected wherever attainable. Within the Kansas Surface Water Quality Standards, the primary contact recreation use is the only designated use that will assure protection of both of these Clean Water Act goals.

#### *B. EPA's Analysis of Information Received for Specific Stream Segments and Lakes*

When promulgating replacement Federal water quality standards, EPA follows the same rebuttable presumption approach that applies under the regulation to State decision-making. 40 CFR 131.22(c). EPA does not believe it is appropriate to alter the current approach for establishing use designations under 40 CFR part 131 merely because the forum for decision-making has changed from the State to the Federal level. Attaining the goals articulated by Congress is no less important when EPA, as opposed to a State, is making use designation determinations. Moreover, EPA believes that failure to apply the rebuttable presumption in the Federal context could undermine how that presumption currently applies to State decision-making under the Federal regulations. If the presumption did not apply equally in the State and Federal decision-making process, a State could effectively shift the burden of demonstrating attainability simply by failing to adequately justify its use designation and thereby triggering a Federal rulemaking proceeding. This result would be contrary to the statute's expectation that States retain primary responsibility for making water quality standards decisions.

At the time of the July 2000 proposal, EPA solicited public comment and

information on the attainability of the proposed Federal uses for the water bodies subject to that proposal. EPA also encouraged the State to continue evaluating the appropriate use designations for these waters and to revise its water quality standards, as appropriate. On March 26, 2001, EPA and the State of Kansas entered into a Memorandum of Understanding (MOU) establishing a schedule to resolve the outstanding disapproved portions of the 1994 Kansas Surface Water Quality Standards. The MOU included a schedule by which the State would conduct use attainability analyses for each of the 1,456 waters contained in EPA's July 2000 proposal. Consistent with the MOU, the State has submitted UAAs for many of the waters identified in EPA's proposed rule.

EPA has evaluated the data and information it received from commenters and the State since the July 2000 proposal. Three categories describe the data and information EPA used to determine the scope of today's final rule:

(1) Kansas' December 10, 2002, submission of new or revised use designations, including UAAs for 225 waters;

(2) 298 use attainability analyses provided by KDHE to EPA on April 11, 2003; and

(3) Information regarding specific waters provided in comments on EPA's July 2000 proposal and additional information collected by EPA for these waters.

In evaluating the information provided to EPA prior to the date of this final regulation, EPA considered whether the data and information sufficiently demonstrated that primary contact recreation is not attainable consistent with the Federal regulations at 40 CFR 131.10(g). For information it received from the State and the public, EPA used the State's protocol for conducting recreation UAAs. EPA had previously reviewed the State's recreation UAA protocol, which is contained in the State's UAA Guidance, and believes that UAAs conducted using the protocol will likely be consistent with Federal regulations.

As a result of this evaluation, 167 waters included in EPA's July 2000 proposal are not included in today's final rule. These waters fall into one of three categories:

(1) Waters where the State has adopted and EPA has approved new or revised recreation use designations in its water quality standards (these include waters designated by the State for primary contact recreation or for

secondary contact recreation uses supported by a UAA);

(2) Waters where the State has provided information supporting the State's previously disapproved 1994 recreation use designations; and

(3) Waters where the State has provided information demonstrating that the water body does not exist.

In addition, EPA identified three stream segments originally included in its July 2000 proposal that had been combined with other stream segments and therefore do not need to be listed separately. The State submitted these administrative changes to EPA on August 10, 1999, which EPA approved on January 19, 2000. EPA inadvertently included these three stream segments as separate listings in its July 2000 proposed rule. Today's rule, however, reflects these changes and is consistent with the State's 2002 *Surface Water Register*. A list of these waters may be found in the document entitled *A Summary of EPA's Use Designation Decisions* contained in the administrative record accompanying this final rule.

The remaining 1,286 waters are included in today's final rule; EPA is promulgating either primary or secondary contact recreation use designations for each of these waters. Four categories describe these waters. Secondary contact recreation uses are designated in today's rule for waters contained in the first category. Primary contact recreation uses are designated for the waters contained in the remaining three categories.

(1) Waters where the State has not yet designated secondary contact recreation in the *Surface Water Register*, but either the State or EPA has performed UAAs consistent with 40 CFR 131.10(g) demonstrating that secondary contact recreation is the appropriate use;

(2) Waters where the State has not yet designated primary contact recreation in the *Surface Water Register*, but either the State or EPA has collected data and information indicating that the primary contact recreation use is attainable;

(3) Waters where the State's analysis does not support the recreation use adopted in the State's *Surface Water Register*; and

(4) Waters where EPA has not received any information or where the information received is insufficient to conclude that primary contact recreation is not attainable.

EPA's detailed analysis of the information submitted by the State of Kansas, by commenters on the proposed rule, and information collected by EPA is presented below.

1. Kansas' December 10, 2002, Submission of Water Quality Standards

On December 10, 2002, KDHE provided EPA with 225 UAAs along with revised water quality standards. For the majority of these waters, the State revised its *Surface Water Register* to reflect the water bodies' new primary contact recreation use designations, secondary contact recreation use designations, or the removal of recreation use designations. EPA reviewed the State's UAAs for consistency with the Federal regulations and collected additional data for 16 waters where the State's UAAs were inconsistent with EPA's regulations and the State's UAA protocol. As a result of this review, on June 24, 2003, EPA withdrew its 1998 disapproval with respect to 161 of these waters and approved the State's use designation decisions for these waters. This approval decision removed the need for Federal promulgation of use designations for these waters. Therefore, EPA is not including these 161 waters in today's rule. 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.

In addition to the 161 waters for which EPA approved the State's use designation decisions, there are 43 other waters for which the State's UAAs (and information collected by EPA for two of these waters) successfully demonstrate that the primary contact recreation use is not an attainable use and that the appropriate use for these waters is secondary contact recreation. However, Kansas has not yet changed its *Surface Water Register* to designate any recreational uses for these waters. Therefore, EPA is promulgating secondary contact recreation for these 43 water bodies.

For another 16 waters, analyses conducted by the State indicate that primary contact recreation is attainable based on an evaluation of a variety of factors, including activities occurring there, water quality, flow, and depth. The State's UAAs recommended the waters for primary contact recreation, but Kansas has not yet adopted these recreation uses into the *Register*. Pursuant to EPA's regulations, the information in the UAA indicates that primary contact recreation is the appropriate use. For these 16 waters, EPA is promulgating primary contact recreation use designations. 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.

EPA reviewed the analyses provided by the State to assure consistency with the Clean Water Act and the implementing Federal regulations. For five of these waters, EPA found that the State's analyses were insufficient either to support the recreation uses contained in the State's 2002 *Surface Water Register* or to demonstrate that primary contact recreation is unattainable. Therefore, EPA is promulgating primary contact recreation for these five water bodies. 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.

In summary, today's rule contains use designations for 64 waters for which the State prepared UAAs in connection with its December 2002 submission but has not yet made use designation changes in its *Surface Water Register*. Once the State adopts and EPA approves use designations for specific waters, EPA will initiate withdrawal of its corresponding Federal use designations for those water bodies.

## 2. Use Attainability Analysis Information Provided by the State of Kansas to EPA on April 11, 2003

On April 11, 2003, the State provided to EPA an additional 298 UAAs that the State conducted during 2002 as part of its scheduled review of all classified waters under State law and the State's Memorandum of Understanding with EPA. EPA reviewed the information contained in the State's UAAs and collected additional data for eight of these waters. As a result of this review, EPA found that, for four waters, the State's UAAs support the State's original 1994 recreation use designations. Consequently, on June 24, 2003, EPA withdrew its 1998 disapproval with respect to these four waters and approved the State's designated uses for these waters. This action removes the need for Federal promulgation of designated uses for these waters. Therefore, EPA is not including these waters in today's final rule. 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 two other waters, Mulberry City Lake and Frazier Lake, the State's analyses demonstrate that these water bodies do not exist; therefore, EPA is removing these two waters from the scope of this rulemaking. Information provided by the State indicates that Mulberry City Lake is not a known

water body in Kansas. It had erroneously been included in the State's 1994 *Surface Water Register* and as part of EPA's 1998 disapproval and July 2000 proposal. The State included Frazier Lake in its 1994 *Surface Water Register*, even though at the time it did not have the characteristics of a lake, because it understood that a lake bearing that name would be created by impounding a stream. In 2003, the State provided information indicating that the project was abandoned. Therefore, Frazier Lake was never created. Based on this new information, EPA is not including these water bodies in today's final rule.

For the remaining 292 waters, based on the information contained in the remaining UAAs conducted by Kansas and the additional information collected by EPA, EPA determined, consistent with 40 CFR 131.10, that a primary contact recreation use designation is appropriate for 143 waters and a secondary contact recreation use designation is appropriate for 149 waters. The State has not yet revised its *Surface Water Register* to codify these primary and secondary contact recreation use designations for any of these waters. Therefore, EPA is today promulgating either primary contact recreation use or secondary contact recreation use designations for these waters consistent with the State's and EPA's analyses. 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.

In its July 2000 proposal, EPA proposed to designate Mined Land Lakes for primary contact recreation. Information in the UAAs provided by the State in April 2003 indicates that 43 individual lakes comprise Mined Land Lakes. (EPA identified these lakes as two separate entries in its July 2000 proposal because EPA had no basis—other than two different hydrologic unit codes—to distinguish among them.) The State conducted UAAs for all 43 lakes that indicate primary contact recreation is the appropriate designated use for all of these water bodies. For simplicity and due to the fact that the information EPA received from the State indicates that all the lakes comprising Mined Land Lakes are capable of supporting primary contact recreation, today's final rule continues to list Mined Land Lakes as two entries in its regulation.

Once the State adopts and EPA approves use designations for these 292 waters, EPA will initiate withdrawal of its corresponding Federal use designations for these waters.

## 3. Information Submitted by Commenters in Response to EPA's July 2000 Proposal and Information Collected by EPA

At the time of its July 2000 proposal, EPA solicited public comment and information on the attainability of the proposed Federal uses for the water bodies subject to that proposal. Prior to today's final action, EPA considered the information provided to EPA during the public comment period for the July 2000 proposed rule and information since collected by EPA. Some of the information submitted to EPA indicated that primary contact recreation uses may not be attainable for particular water bodies and that, therefore, the "presumption" of primary contact recreation was potentially rebutted. In reviewing public comments to determine whether the presumption had been rebutted for a particular water body, EPA considered a number of factors, including (1) whether the comment identified a specific water body or provided reasonably specific locational information for EPA to use to identify the water body discussed in the comment; (2) whether the comment stated or clearly implied that because of the depth or flow level of the water, the water body was not capable of supporting primary contact recreation during any part of the recreation season (April through October under Kansas law); and (3) whether the comment claimed that the water should not be designated for primary contact recreation.

For 93 water bodies, EPA determined that the information provided by commenters potentially rebutted the presumption of primary contact recreation. For these waters, EPA collected additional information consistent with the requirements of 40 CFR 131.10(g) to determine the appropriate recreational use of the water body. If Kansas had not yet completed an acceptable use attainability analysis for a particular water body, EPA—using Kansas' expedited recreational use attainability analysis protocol in coordination with the State—performed a use attainability analysis. As a result, EPA collected additional information for 93 waters. Based on this information, EPA determined, consistent with 40 CFR 131.10, that a primary contact recreation use designation is appropriate for 53 waters and a secondary contact recreation use designation is appropriate for 38 waters. The State has not yet adopted these use designations for any of these waters. Therefore, EPA is today promulgating primary contact recreation use

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



information to indicate that Whiskey Creek contains aquatic life conditions other than common habitat types and indigenous biota, EPA believes that an expected aquatic life use designation is appropriate for aquatic life in Whiskey Creek. Therefore, EPA has designated Whiskey Creek for expected aquatic life. This water is identified in 131.34(a) in today's rule. Once the State adopts and EPA approves an appropriate designation for this water body, EPA will initiate a withdrawal of the use designation promulgated for this water body.

#### *D. Effect of Today's Rulemaking on the State's Water Quality Programs*

EPA's approach in this rulemaking does not undermine the State's primary role in designating uses for waters in Kansas. EPA prefers that States establish their own regulations. Consequently, on March 26, 2001, EPA embarked on a process with the State of Kansas to resolve the remaining issues identified in EPA's 1998 disapproval decision and obviate the need for EPA rulemaking. EPA Region 7 and the State of Kansas entered into a Memorandum of Understanding (MOU) establishing a schedule to resolve the outstanding disapproved portions of the 1994 Kansas Surface Water Quality Standards. The MOU included a schedule by which the State would conduct use attainability analyses for a total of 1,456 waters not designated for primary contact recreation uses in its 1994 revisions. The Kansas legislature later passed a law requiring KDHE to develop recreation UAAs for all State waters on a regular schedule by October 2005. KSA-82a-2004. The schedule established by the Kansas legislature superseded the one established by the MOU. However, today's rulemaking by EPA does not supersede or moot any of the requirements for KDHE to conduct UAAs contained in the statute. Indeed, EPA fully expects the State to continue to develop UAAs on the schedules set forth in State law and to adopt new or revised use designations when appropriate.

If the State's forthcoming UAAs indicate that primary contact recreation uses are not attainable for waters designated for that use in today's rule and EPA approves the new use designations adopted by the State, EPA will initiate withdrawal of the use designations promulgated today for such waters. For over 350 waters in today's rule, the uses being promulgated today are consistent with analyses provided to EPA by the State. For these waters, the State need not conduct any further analyses and can simply adopt

the use designations for the specific waters identified in today's rule. Once the designated uses are adopted by the State for specific waters and are submitted to and approved by EPA, EPA will initiate withdrawal of its rulemaking for those waters.

Consequently, due to the schedule by which the State is expected to complete UAAs for the remaining waters in today's rule and the discretion the State is afforded by the Clean Water Act and its implementing regulations, EPA does not anticipate that today's regulation will have a significant effect on the State's water quality program and potentially affected entities.

Further, water quality standards do not directly affect any entity. It is only through the implementation of these water quality standards through such mechanisms as NPDES permits that these water quality standards will have any direct effect. The State has flexibility in how it implements these water quality standards. EPA has included a variance provision in today's final rule, 40 CFR 131.34(c), authorizing the Regional Administrator to grant variances based upon a permittee's demonstration, consistent with the Federal regulations, that the use is not attainable. Variances are particularly suitable for instances where the cause of nonattainment is discharger-specific and it appears that the designated use in question will eventually be attainable or be demonstrated to be unattainable. See section VI.C. Additionally, the State will use these water quality standards in identifying impaired waters and establishing Total Maximum Daily Loads (TMDLs). Where the State identifies waters subject to this rulemaking as impaired, the State has discretion in scheduling the water for TMDL development. Further discussion is contained in Section VI.D.

The designation of uses in this rule is not intended to apply to waters within Indian country. The 1999 *Kansas Surface Water Register* included some stream segments that may be located wholly or partly in Indian Country. EPA approval of designated uses for waters in Kansas has never been intended to apply to any waters located within Indian Country because EPA has not analyzed or approved the State's authority to adopt water quality standards for waters in Indian Country. EPA has recommended that the State clarify this matter by amending the *Kansas Surface Water Register* to specify that the State's water quality standards do not apply to any portions of waters located in Indian Country. EPA is working with Tribes in Region 7 to identify those Tribes that may

consider seeking authorization to administer the water quality standards program under the CWA. This effort is part of a national effort to ensure there are water quality standards for Indian Country waters.

#### **V. Economic Analysis**

This final rule will have no direct impact on any entity because the rule simply establishes water quality standards (e.g., use designations) which by themselves do not impose any costs. These standards, however, may serve as a basis for development of NPDES permit limits. In Kansas, the State is the NPDES permitting authority and retains considerable discretion in implementing standards. Thus, until the State implements these water quality standards, there will be no effect on any entity. Nonetheless, EPA prepared a preliminary analysis to evaluate potential costs to NPDES dischargers in Kansas associated with future State implementation of EPA's Federal standards.

Any NPDES-permitted facility that discharges to water bodies affected by this rule could potentially incur costs to comply with the rule's provisions. The types of affected facilities may include industrial facilities and publicly owned treatment works (POTWs). EPA did not consider the potential costs for nonpoint sources, such as agricultural and forestry-related nonpoint sources, although EPA recognizes that the State may decide to impose controls on these sources to achieve water quality standards. As a technical matter, nonpoint source discharges are difficult to model and evaluate for potential costs because they are intermittent, highly variable, and occur under different hydrologic or climatic conditions than continuous discharges from industrial and municipal facilities, which are evaluated under critical low flow or drought conditions. Thus, the evaluation of nonpoint sources and their effects on the environment is highly site-specific and data sensitive. In addition, EPA did not address the potential monetary benefits of this rule for Kansas.

#### *A. Identifying Affected Facilities*

To identify facilities potentially affected by the primary or secondary contact recreation uses promulgated in today's rule, EPA used an inventory of affected facilities submitted by the KDHE in its comments on the proposed rule. This list identifies 416 facilities—14 majors and 402 minors. Of the stream segments and lakes included in the rule, one stream segment is also lacking an aquatic life support use (Whiskey

Creek). EPA identified one facility that discharges to Whiskey Creek. However, just prior to EPA publishing this final rule, KDHE provided EPA with an updated inventory identifying a total of 183 potentially affected facilities. The smaller number of facilities reflects the narrowed scope of this final rule relative to EPA's July 2000 proposal. Thus, EPA's economic analysis described in this section likely overstates the potential economic impact of this action in two respects: First, because EPA estimated the cost of controls based on

the universe of 416 facilities identified as part of the proposed rule; and second, because EPA assumed that all of these facilities discharge to waters protected for primary contact recreation, when in fact many waters included in this final rule are being designated for secondary contact recreation.

*B. Evaluating Sample Facilities*

In its comments on the proposed rule, KDHE included an analysis of costs for all 416 facilities it identified. For one subgroup of these facilities (283 conventional lagoons), KDHE provided

effluent data for 20. Thus, EPA used the data for the 20 facilities to review and evaluate KDHE's analysis of costs for this subgroup. For another subgroup (133 mechanical treatment plants), effluent data is available for five facilities in EPA's Permit Compliance System. Thus, EPA used the data for these five facilities to review and evaluate KDHE's analysis of costs for this subgroup. The number of facilities identified and the number of facilities for which EPA evaluated data are presented in Table 2.

TABLE 2.—NUMBER OF FACILITIES POTENTIALLY AFFECTED AND EVALUATED

Provision	Potentially affected facilities <sup>1</sup>			Evaluated facilities		
	Majors	Minors	Total	Majors	Minors	Total
Primary or Secondary Contact Recreation <sup>2</sup> .....	14	402	416	3	22	25
Aquatic Life <sup>3</sup> .....	1	0	1	1	0	1

<sup>1</sup> Source: KDHE comments on proposed rule (Kansas Department of Health & Environment, Comments on EPA Proposed Water Quality Standards Promulgation, October 16, 2000). However, just prior to EPA publishing this final rule, KDHE provided EPA with an updated inventory of 183 potentially affected facilities reflecting the narrowed scope of this final rule. Thus, EPA analysis likely overstates the potential economic impact of this action.

<sup>2</sup> Facilities discharging to water bodies for which EPA is promulgating primary or secondary contact recreation use designations.

<sup>3</sup> Includes facility discharging to water body for which EPA is promulgating an existing aquatic life use designation.

*C. Method for Estimating Potential Compliance Costs*

For facilities discharging to waters with a new primary contact recreation use designation, EPA assumed that a sample facility would have a reasonable potential to exceed water quality criteria for fecal coliforms (and require a permit limit) if the maximum effluent concentration exceeds the most stringent water quality criterion (the monthly average of 200 colonies per 100 ml). EPA also assumed a facility would have a reasonable potential if it currently has a limit for fecal coliforms, or if it discharges treated domestic sewage that has not been disinfected. For facilities with a reasonable potential, EPA assumed that projected effluent limits would be the same as the State's existing water quality criteria for fecal coliforms (a monthly geometric mean of 200 colonies per 100 ml and a weekly geometric mean of 400 colonies per 100 ml) because EPA guidance recommends this approach (Memo from Jeffrey G. Miller, Deputy Assistant Administrator, Water Enforcement to Regional Enforcement Directors, Regional Permit Branch Chiefs, and NPDES State Directors, February 1977).

For facilities with a reasonable potential to exceed water quality criteria for fecal coliforms, EPA assumed that a sample facility would incur costs if its maximum effluent concentration (or existing permit limit, whichever is smaller) exceeds the most stringent

criterion. EPA also assumed that facilities discharging domestic sewage without a disinfection system currently in place would incur costs. EPA assumed that ultraviolet (UV) light disinfection would be installed at facilities with effluents containing domestic sewage that do not have a disinfection system in place. Where EPA determined that facilities with existing disinfection systems would not be likely to meet the projected effluent limits, EPA assumed that treatment process optimization will be necessary.

One facility discharges to a stream for which EPA is promulgating an existing aquatic life use designation. However, because effluent data are not available for this facility, EPA estimated at the time of proposal that it does not have reasonable potential to cause exceedences of chronic aquatic criteria. Consequently, EPA anticipates no cost for this provision. Commenters on the proposed rule did not disagree with EPA's identification of this facility or its conclusions regarding its reasonable potential to cause exceedences of chronic aquatic life criteria.

*D. Results*

EPA estimated the potential costs associated with its decision to designate water bodies for (1) primary and secondary contact recreation uses, and (2) an aquatic life use. For waters designated for either a primary or a secondary contact recreation use, there

are 416 potentially affected facilities. EPA estimated costs based on data for 25 of these facilities, and extrapolated the results to all potentially affected facilities.

EPA estimated that the potential total statewide annual cost associated with designating all of the affected water bodies for primary contact recreation would be approximately \$1.8 million. Nearly all of the affected facilities would be minor dischargers, and the majority of those are conventional lagoons that would probably need UV disinfection to reduce fecal coliforms. As previously noted, EPA's economic analysis likely overstates the potential economic impact of this action because EPA based its projected effluent limitations and the subsequent cost of controls for potentially affected entities on meeting the fecal coliform criterion associated with the primary contact recreation use. The potential cost to facilities discharging to waters designated for secondary contact recreation will likely be less.

EPA estimated that the potential cost associated with promulgating an existing aquatic life use on the affected water body is zero. This estimate is based on the one affected facility that EPA identified.

*E. Total Statewide Costs*

Table 3 summarizes the total estimated potential statewide costs of today's rule. As described earlier, much

of the costs for this rule may result from the need for minor dischargers to install disinfection systems.

TABLE 3.—TOTAL ESTIMATED POTENTIAL STATEWIDE COSTS [2002 \$/yr]

Provision	Estimated annual cost
Facilities Discharging to Waters Lacking Primary Contact Recreation Designated Use ..	1,800,000
Facilities Discharging to Waters Lacking Aquatic Life Designated Use .....	0
Total .....	1,800,000

#### F. Significant Comments on the Economic Analysis for the Proposed Rule

In comments submitted on the proposed rule, KDHE provided detailed inventories of facilities affected by each provision of the proposed rule. In comparison, EPA's estimates of affected facilities used to analyze costs for the proposed rule were incomplete, because of missing data. Therefore, because the State of Kansas should have the best information on the location of its facilities, EPA based its analysis of the final rule on KDHE's inventories.

To estimate potential compliance costs, EPA generally followed the approach used by KDHE in a cost impact analysis submitted as part of its comments on the proposed rule. EPA considered the same general categories of facilities; however, EPA's methodology differed in a number of key details.

For each of the 133 mechanical treatment plants and aerated lagoons, KDHE performed a facility-by-facility assessment of the treatment technologies that the facilities might need to install because of this rule based on data regarding existing treatment processes and effluent concentrations. KDHE concluded that 65 facilities would probably need to install treatment for fecal coliforms. However, the KDHE cost impact analysis did not include the facility-specific data on which these assessments were based. Therefore, EPA used existing data available from PCS to examine KDHE's conclusions. PCS data for fecal coliform, available for five facilities in the potentially affected universe, indicated that four of these facilities would probably need to install additional treatment. Because PCS data were consistent with KDHE's conclusions for each facility, EPA accepted KDHE's conclusions regarding which facilities

would need additional treatment, except the one for which PCS data showed otherwise. KDHE concluded that about half of the affected facilities would only need to expand their existing disinfection process and would not need UV disinfection. However, since EPA did not know the specific disinfection processes currently in operation at the facilities, EPA conservatively assumed that all facilities would need to install UV disinfection.

For conventional lagoons, KDHE provided two years of effluent sampling data for 20 sample facilities. EPA examined the sampling data for the 20 sample facilities and determined that only 8 of the facilities (40% of sample) would need to install additional treatment for fecal coliforms. EPA assumed that each facility would pursue the lowest cost option available (*i.e.*, addition of UV disinfection). EPA then extrapolated costs, based on the percentage of sample facilities (40%) needing additional treatment, to the universe of potentially affected lagoons, and concluded that a total of 113 facilities would probably need to install additional treatment for fecal coliforms. To provide a conservative estimate of costs, EPA assumed that the lagoons needing treatment would be the largest facilities that EPA identified among the facilities potentially affected by provisions of the proposed rule.

However, just prior to EPA's promulgation of this final rule, KDHE provided EPA with an updated inventory reducing the number of potentially affected facilities from 416 to 183 facilities reflecting the narrowed scope of this final rule relative to EPA's July 2000 proposal. Thus, EPA's economic analysis likely overstates the economic impact of this rule.

For a response to the other comments EPA received on its economic analysis of the proposed rule, see the Response to Comments document contained in the administrative record to this rulemaking.

#### VI. Alternative Regulatory Approaches and Implementation Mechanisms

Data and information may become available after the date of this rulemaking that will be material to water quality standards for Kansas. There are several mechanisms available to ensure that the water quality standards and their implementing mechanisms appropriately take into account such new information. These mechanisms are described in VI. A., B., C., and D.

It is important to remember that two of these mechanisms, designated use changes and site-specific criteria, are

modifications to the State's water quality standards. Federal regulations at 40 CFR 122.44(d)(1) require that NPDES permits include limitations necessary to achieve water quality standards adopted under section 303 of the CWA.

Therefore, a designated use revised by the State or a site-specific criterion cannot be the basis for NPDES permit limitations until the State has adopted it as part of its water quality standards, has submitted it to EPA, and EPA has approved it. See 40 CFR 131.21(c) & (d). EPA would also need to withdraw any corresponding Federal use designation. As with any other State revision to its water quality standards, EPA will then review these revisions to determine whether they are scientifically defensible in accordance with 40 CFR 131.11(b)(1)(iii), or meet the requirements of 40 CFR 131.10(g), as applicable. EPA will also consider whether the appropriate procedural requirements have been met, such as public participation and certification by the appropriate legal authority within the State. Therefore, Kansas will not be able to employ its designated use changes and site-specific criteria as a basis for NPDES permit limits until Kansas submits and EPA approves them. As noted in EPA's regulations, State water quality standards do not become effective for Clean Water Act purposes until they are approved by EPA. See 40 CFR 131.21. In addition, EPA would also need to withdraw any corresponding Federal use designations.

While 40 CFR 131.13 allows States to adopt variances for State-adopted water quality standards, such variances may not be used for Federally promulgated water quality standards. Consequently, EPA has included in today's rule a Federal variance provision allowing the Region 7 Regional Administrator to grant water quality standards variances where a permittee submits data indicating that an EPA-designated use is not attainable for any of the reasons in 40 CFR 131.10(g). This process is discussed in greater detail in section VI.C. below.

#### A. Designating Uses

As described throughout this preamble, States have considerable discretion in designating uses. EPA expects that as the State conducts its planned UAAs, it may find that changes in use designations are warranted for some of these water bodies. If Kansas adopts and submits to EPA new use designations for waters bodies subject to today's rule and if EPA approves the State's use designations, EPA will initiate withdrawal of the corresponding use designations promulgated today.

In adopting recreation uses, the State may wish to consider additional categories of recreation uses. For example, Kansas could establish more than one category of primary contact recreation to differentiate between waters where recreation is known to occur and waters where recreation is not known to occur but may be attained based on water quality, flow, and depth characteristics.

EPA cautions the State that it must conduct a use attainability analyses as described in 40 CFR 131.10(g) when adopting water quality standards that result in uses that are not specified in section 101(a)(2) of the CWA, or that result in subcategories of uses specified in section 101(a)(2) that require less stringent criteria. See 40 CFR 131.10(j).

#### B. Site-Specific Criteria

The State may also develop data that indicate that a site-specific water quality criterion for a particular pollutant is appropriate, and then take action to adopt such a criterion into its water quality standards. Site specific criteria are allowed by regulation and are subject to EPA review and approval. 40 CFR 131.11 requires States to adopt criteria that protect designated uses, that are based on sound scientific rationale, and that contain sufficient parameters or constituents to protect the designated use. In adopting water quality criteria, States should establish numerical values based on EPA's recommended 304(a) criteria guidance, 304(a) criteria guidance modified to reflect site specific conditions, or other scientifically defensible methods, or should establish narrative criteria where numerical criteria cannot be determined or where necessary to supplement narrative criteria.

EPA does not currently have specific guidance for States and authorized Tribes on developing site-specific criteria for the protection of recreation uses. This does not preclude the State from developing its own scientifically defensible methods. With regard to site-specific criteria for the protection of aquatic life, EPA guidance recommends three procedures States and authorized Tribes can consider using: The Recalculation Procedure, the Water-Effect Ratio Procedure and the Resident Species Procedure. These procedures can be found in the *Water Quality Standards Handbook* (EPA-823-B940005a, 1994). EPA also recognizes there may be naturally occurring concentrations of pollutants that may exceed the national criteria recommendations published under section 304(a) of the CWA, and has issued policy guidance on establishing

site-specific aquatic life criteria equal to natural background. (Memo from Tudor T. Davies, Director, Office of Science and Technology to the Regional Water Management Division Directors, and State and Tribal Water Quality Management Program Directors, dated November 5, 1997.)

#### C. Variances

A water quality standards variance is a mechanism that can temporarily modify water quality standards. Today's rule contains a Federal variance procedure for the designated uses being promulgated today. However, the procedures described later in this section can also be used by the State to develop variances for State-adopted water quality standards.

EPA believes variances are particularly suitable when the cause of nonattainment is discharger-specific and it appears that the designated use in question will eventually be attained or demonstrated to be unattainable. EPA has approved the granting of water quality standards variances by States in circumstances that would otherwise justify changing a use designation on the grounds of unattainability (*i.e.*, one or more of the six circumstances contained in 40 CFR 131.10(g) is met). In contrast to a change in standards that removes a use designation for a water body, a water quality standards variance applies only to the discharger to whom it is granted and only to the pollutant parameter(s) upon which the finding of unattainability is based, and only for a limited period of time. The underlying standard remains in effect for all other CWA purposes.

For example, if the State or a permittee demonstrates that the primary contact recreation use can not be attained pursuant to 40 CFR 131.10(g) because of high levels of fecal coliforms from a wastewater treatment facility, but where the treatment technology, when upgraded, may allow the designated use to be attained, a temporary variance may be appropriate. The variance would allow the discharger's permit to include limits based on relaxed criteria for fecal coliform until the new technology is put in place and it is determined whether the underlying designated use is attainable. The practical effect of such a variance is to allow a permit to be written using less stringent criteria, while encouraging ultimate attainment of the underlying standard. A water quality standards variance provides a mechanism for ensuring compliance with sections 301(b)(1)(C) and 402(a)(1) of the CWA, while granting temporary relief to point source dischargers.

While 40 CFR 131.13 allows States to adopt variance procedures for State-adopted water quality standards, such State procedures may not be used to grant variances for Federally adopted standards. EPA believes that it is appropriate to provide comparable Federal procedures where, as here, EPA adopts use designations which rely, at least in part, on a rebuttable presumption that fishable/swimmable uses are attainable or adopts more stringent criteria for the State's use designations. Through today's rule, the Region 7 Regional Administrator may grant water quality standards variances where a permittee submits data indicating that an EPA-designated use is unattainable for any of the reasons in 40 CFR 131.10(g). Therefore, today's rule includes procedures that will apply to the designated uses being promulgated today at § 131.34(a) and (b).

Today's rule spells out the process for applying for and granting such variances. Authorizing the Regional Administrator to grant variances should expedite the processing of variance requests. Today's regulation specifies that EPA will use informal adjudication processes in reviewing and granting variance requests. That process is contained in § 131.34(c) of today's rule. Because water quality standards variances are considered revisions to water quality standards, the rule provides that the Regional Administrator will provide public notice of the proposed variance and provide an opportunity for public comment. EPA understands that variance-related issues can often arise in the context of permit issuance. EPA Region 7 will seek to work closely with the State permitting authorities to ensure that variance requests will be considered in tandem with the State NPDES permitting process.

The variance procedure promulgated today requires an applicant for a water quality standards variance to submit a request to the Regional Administrator (or his/her delegatee) with supporting information. Under this rule, as in the national program, the burden is on the applicant to demonstrate to EPA's satisfaction that the designated use is unattainable for one of the reasons specified in 40 CFR 131.10(g). (These reasons are restated in § 131.34(c)(3) of today's rule.) A variance may not be granted if the use can be attained, at a minimum, by all dischargers implementing effluent limitations required under sections 301(b) and 306 of the CWA and the applicant implementing reasonable best management practices for nonpoint source control.

Under today's rule, a variance may not exceed three years or the term of the NPDES permit, whichever is less. A variance may be renewed if the permittee again demonstrates that the use in question is still not attainable. Renewal of the variance may be denied if EPA finds that the conditions of 40 CFR 131.34(c)(3) are not met.

EPA solicited comment on the need for a variance process for EPA-promulgated use designations, the appropriateness of the particular procedures proposed, and whether the proposed procedures are sufficiently detailed. EPA received one comment asserting that this process is likely to be cumbersome, expensive, and time consuming. EPA disagrees and believes, as described earlier, that authorizing the Regional Administrator to grant variance requests should expedite the processing of variance requests. EPA will seek to work closely with the State permitting authorities to ensure that variance requests are considered in tandem with the State NPDES permitting process to prevent any unreasonable delay.

#### *D. Total Maximum Daily Loads (TMDLs)*

A Total Maximum Daily Load is a tool created by the Clean Water Act that expresses the total amount of a given pollutant that a particular water body may receive and still achieve applicable water quality standards. Section 303(d) of the CWA and its implementing regulations at 40 CFR part 130 establish the requirements for TMDLs. The TMDL process can broaden the opportunity for public participation, expedite water quality-based NPDES permitting, and lead to technically sound and legally defensible decisions for attaining and maintaining water quality standards. In addition, the TMDL process provides a mechanism for integrating the management of both point and nonpoint pollution sources that together may contribute to a water body's impairment. (See *Guidance for Water Quality-based Decisions*; The TMDL Process, EPA 440-4-91-001, April 1991.)

EPA recognizes that the waters designated today for primary or secondary contact recreation will be subject to water quality criteria for fecal coliforms that had not previously been in place for these waters. The currently effective water quality criterion for fecal coliform 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. EPA further recognizes that because fecal coliform criteria will apply to these waters where previously there was no applicable fecal coliform water quality criteria, it is possible that the State might identify some of the waters as impaired in its CWA section 303(d) list(s) and, therefore, schedule them for TMDL development. This is particularly an issue for streams, because the State's UAAs to date indicate that most of the lakes at issue are appropriately designated for primary contact recreation, but that many of the streams it examined should not be so designated.

As discussed elsewhere in today's notice, EPA strongly encourages the State of Kansas to determine the appropriate uses for all of the waters subject to today's promulgation. Kansas is required by State law to perform use attainability analyses for all water bodies in its *Surface Water Register* by October 31, 2005. EPA expects that Kansas will be able to show that secondary contact recreation is indeed the appropriate use designation for many of the streams subject to today's rule. If, for example, EPA approves the State's adoption of a secondary contact recreation use designation for a water body, and withdraws that water body from the Federal regulation, the State's use designation will be the applicable use for that water body for all CWA purposes, including section 303(d) attainment and listing decisions. In that event, Kansas would be required to list waters included in today's rule under CWA section 303(d) only if data and information show that it exceeds the water quality criterion for fecal coliform for the protection of secondary contact recreation uses.

Similarly, even for waters that are designated for primary contact recreation at the time Kansas assembles its CWA section 303(d) list(s), EPA notes that Kansas need not include a water on its list(s) if it lacks data and information to determine whether the primary contact recreation use is being protected, or if the data and information it has is insufficient to make that determination. See 40 CFR 130.7(b)(5); *2002 Integrated Water Quality Monitoring and Assessment Report Guidance*, at 5 (November 19, 2001). While EPA expects Kansas to follow the requirements, if any, of its assessment and listing methodology, EPA also recognizes that it is possible that at the time Kansas compiles its 2004 CWA section 303(d) list, it will not have data or information indicating impairment

for many of the waters designated today for primary contact recreation. Therefore, it is possible that many of these waters will not appear on Kansas' next CWA section 303(d) list.

Even if Kansas does list waters subject to today's rule on its CWA section 303(d) list(s) because data or information indicate that water quality standards are not been achieved, EPA also recognizes that this listing decision does not mean that a TMDL will immediately be developed. Rather, CWA section 303(d)(1) specifically provides States with the discretion to establish a priority ranking for TMDL development for listed waters, and then to establish TMDLs in accordance with that ranking. In view of the fact that by October 31, 2005, Kansas is required by State law to perform use attainability analyses for each water subject to today's rule, EPA believes it would be reasonable for the State to assign a low priority ranking to those waters. If Kansas submits and EPA approves new or revised use designations for a water, and if that use is being protected, then the water would not need to appear on subsequent State CWA section 303(d) lists and no TMDL would be required under section 303(d).

Consequently, because of the State's schedule to conduct additional UAAs and the discretion afforded the State in prioritizing TMDL development, EPA does not believe that TMDLs are likely to be developed for many of these waters in the near future. Finally, EPA notes that even if Kansas establishes a TMDL for a water designated today for primary or secondary contact recreation, the question of implementing the TMDL with respect to nonpoint sources is entirely a matter of State law.

## **VII. 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 Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive 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 Office of Management and Budget review.

#### B. Paperwork Reduction Act

This final action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The final rule 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 economic impact on a substantial number of small entities. Small entities include small businesses, small

organizations and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, a small entity is defined as: (1) A small business according to RFA default definitions for small business (based on SBA size standards); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities.

The RFA requires analysis of the impacts of a rule on the small entities subject to the rule's requirements. See *United States Distribution Companies v. FERC*, 88 F.3d 1105, 1170 (DC Cir. 1996). Today's final rule establishes no requirements applicable to small entities, and so is not susceptible to regulatory flexibility analysis as prescribed by the RFA. ("[N]o [regulatory flexibility] analysis is necessary when an agency determines that the rule will not have a significant economic impact on a substantial number of small entities *that are subject to the requirements of the rule.*" *United Distribution* at 1170, quoting *Mid-Tex Elec. Co-op v. FERC*, 773 F.2d 327, 342 (DC Cir. 1985) (emphasis added by *United Distribution* court).)

Under the CWA water quality standards program, States must adopt water quality standards for their waters and must submit those water quality standards to EPA for approval; if the Agency disapproves a State standard and the State does not adopt appropriate revisions to address EPA's disapproval, EPA must promulgate standards consistent with the statutory requirements. EPA also has the authority to promulgate water quality standards in any case where the Administrator determines that a new or revised standard is necessary to meet the requirements of the Act. These State standards (or EPA-promulgated standards) are implemented through various water quality control programs including the NPDES program, which limits discharges to navigable waters except in compliance with an NPDES permit. The CWA requires that all NPDES permits include any limits on discharges that are necessary to meet applicable water quality standards.

Thus, under the CWA, EPA's promulgation of water quality standards establishes standards that the State implements through the NPDES permit process. The State has discretion in developing discharge limits as needed to meet the standards. While the State's implementation of Federally promulgated water quality standards may result in new or revised discharge limits being placed on small entities, the standards themselves do not apply to any discharger, including small entities.

Today's final rule, as explained earlier, does not itself establish any requirements that are applicable to small entities. As a result of this action, the State of Kansas will need to ensure that permits it issues include any limitations on discharges necessary to comply with the standards established in this rule. In doing so, the State will have a number of choices associated with permit writing. While Kansas's implementation of the rule may ultimately result in some new or revised permit conditions for some dischargers, including small entities, EPA's action today does not impose any of these as yet unknown requirements on small entities.

#### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal

governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or Tribal governments or the private sector. The final rule imposes no enforceable duty on the State or any local or Tribal government or the private sector; rather, this rule promulgates designated uses for certain waterbodies in Kansas which, when combined with State-adopted water quality criteria, constitute water quality standards for those water bodies. The State may use these resulting water quality standards in implementing its water quality control programs. Today's final rule does not regulate or affect any entity and, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments. The final rule imposes no enforceable requirements on any party, including small governments. Thus, this final rule is not subject to the requirements of section 203 of UMRA.

#### *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."

This final rule does not have federalism implications. It will not 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, as specified in Executive Order 13132. The final rule

will not affect the nature of the relationship between EPA and States generally, for the rule only applies to waterbodies in Kansas. Further, the final rule will not substantially affect the relationship of EPA and the State of Kansas, or the distribution of power or responsibilities between EPA and the various levels of government. The final rule will not alter the State's authority to issue NPDES permits or the State's considerable discretion in implementing these water quality standards. Further, this final rule will not preclude Kansas from adopting water quality standards that meet the requirements of the CWA. Thus, Executive Order 13132 does not apply to this final rule.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with State and local government representatives in developing this rule. EPA had regular communications with KDHE, including KDHE's submission to EPA of over 500 UAAs that EPA considered in developing this rule. In addition, EPA held several meetings and phone calls with representatives from KDHE, other State agencies, and State legislators to discuss any concerns they had regarding the rule's content and EPA's approach to developing the rule. EPA also considered comments submitted by municipalities in its development of today's rule.

#### *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 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. In this final action, EPA expressly excludes waters in Indian country.

Thus, Executive Order 13175 does not apply to this rule.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045: Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and it does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. This rule establishes water quality standards to meet the requirements of the CWA and the implementing Federal regulations. As part of its proposed rule, EPA specifically invited the public to submit or identify peer-reviewed studies and data indicating these water quality standards are not adequate to protect children's health. No such comments were received.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act*

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or

adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States.

EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective August 6, 2003.

**List of Subjects in 40 CFR Part 131**

Environmental protection, Indian-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: June 27, 2003.

**Christine Todd Whitman,**  
*Administrator.*

■ For the reasons set forth in the preamble, EPA amends 40 CFR part 131 as follows:

**PART 131—WATER QUALITY STANDARDS**

■ 1. The authority citation for part 131 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

■ 2. Section 131.34 is added to read as follows:

**§ 131.34 Kansas.**

(a) In addition to the State-adopted use designations, the following water body segment in Kansas is designated for an expected aquatic life use:

Stream segment name	HUC8	Segment #	Designated use
<b>Basin: Missouri</b> <b>Subbasin: Independence-Sugar</b>			
Whiskey Creek .....	10240011	235	Expected Aquatic Life.

(b) In addition to the State-adopted use designations, the following water body segments and lakes in Kansas are designated for recreation uses as specified in the following table:

Stream segment name	HUC8	Segment #	Designated use
<b>Basin: Cimarron</b> <b>Subbasin: Upper Cimarron-Bluff</b>			
Big Sandy Creek .....	11040008	6	Primary Contact Recreation
Gyp Creek .....	11040008	25	Secondary Contact Recreation
Indian Creek .....	11040008	14	Secondary Contact Recreation
Kiger Creek .....	11040008	8	Secondary Contact Recreation
Stink Creek .....	11040008	17	Secondary Contact Recreation
Two Mile Creek .....	11040008	15	Secondary Contact Recreation

<b>Subbasin: Lower Cimarron-Eagle Chief</b>			
Anderson Creek .....	11050001	39	Primary Contact Recreation

<b>Basin: Kansas/Lower Republican</b> <b>Subbasin: Middle Republican</b>			
Antelope Creek .....	10250016	66	Secondary Contact Recreation
Ash Creek .....	10250016	65	Secondary Contact Recreation
Bean Creek .....	10250016	76	Secondary Contact Recreation
Cora Creek .....	10250016	51	Secondary Contact Recreation
Crow Creek (Crystal Creek) .....	10250016	52	Secondary Contact Recreation
Korb Creek .....	10250016	72	Primary Contact Recreation
Long Branch .....	10250016	68	Secondary Contact Recreation
Lost Creek .....	10250016	53	Primary Contact Recreation
Louisa Creek .....	10250016	61	Secondary Contact Recreation
Norway Creek .....	10250016	73	Secondary Contact Recreation
Oak Creek .....	10250016	75	Secondary Contact Recreation
Rebecca Creek .....	10250016	39	Secondary Contact Recreation
Spring Creek .....	10250016	71	Secondary Contact Recreation
Spring Creek .....	10250016	78	Secondary Contact Recreation
Taylor Creek .....	10250016	74	Secondary Contact Recreation
Walnut Creek .....	10250016	40	Primary Contact Recreation
Walnut Creek .....	10250016	46	Secondary Contact Recreation
White Rock Creek, North Branch .....	10250016	60	Secondary Contact Recreation



Stream segment name	HUC8	Segment #	Designated use
Wolf Creek .....	10250016	67	Secondary Contact Recreation
<b>Subbasin: Lower Republican</b>			
Cool Creek .....	10250017	50	Secondary Contact Recreation
Elm Creek, West Branch .....	10250017	59	Secondary Contact Recreation
Gar Creek .....	10250017	12	Primary Contact Recreation
Mud Creek .....	10250017	63	Secondary Contact Recreation
Turkey Creek .....	10250017	51	Secondary Contact Recreation
<b>Subbasin: Upper Kansas</b>			
Dry Creek .....	10270101	19	Primary Contact Recreation
Humbolt Creek .....	10270101	10	Primary Contact Recreation
Kitten Creek .....	10270101	14	Primary Contact Recreation
Little Arkansas Creek .....	10270101	13	Primary Contact Recreation
Little Kitten Creek .....	10270101	16	Primary Contact Recreation
Mulberry Creek .....	10270101	20	Secondary Contact Recreation
<b>Subbasin: Middle Kansas</b>			
Adams Creek .....	10270102	53	Secondary Contact Recreation
Bartlett Creek .....	10270102	55	Secondary Contact Recreation
Big Elm Creek .....	10270102	90	Secondary Contact Recreation
Blackjack Creek .....	10270102	64	Secondary Contact Recreation
Blacksmith Creek .....	10270102	102	Secondary Contact Recreation
Bourbonais Creek .....	10270102	63	Primary Contact Recreation
Brush Creek .....	10270102	57	Primary Contact Recreation
Coal Creek .....	10270102	46	Secondary Contact Recreation
Coryell Creek .....	10270102	94	Secondary Contact Recreation
Cow Creek .....	10270102	45	Secondary Contact Recreation
Crow Creek .....	10270102	86	Primary Contact Recreation
Darnells Creek .....	10270102	51	Secondary Contact Recreation
Dog Creek .....	10270102	78	Secondary Contact Recreation
Doyle Creek .....	10270102	69	Primary Contact Recreation
Dry Creek .....	10270102	79	Primary Contact Recreation
Dutch Creek .....	10270102	92	Secondary Contact Recreation
Elm Creek .....	10270102	98	Primary Contact Recreation
Elm Creek .....	10270102	103	Secondary Contact Recreation
Elm Slough .....	10270102	58	Secondary Contact Recreation
Emmons Creek .....	10270102	66	Secondary Contact Recreation
French Creek .....	10270102	19	Primary Contact Recreation
Gilson Creek .....	10270102	47	Secondary Contact Recreation
Hendricks Creek .....	10270102	73	Primary Contact Recreation
Hise Creek .....	10270102	43	Secondary Contact Recreation
Indian Creek .....	10270102	20	Secondary Contact Recreation
James Creek .....	10270102	87	Secondary Contact Recreation
Jim Creek .....	10270102	52	Secondary Contact Recreation
Johnson Creek .....	10270102	84	Secondary Contact Recreation
Kuenzli Creek .....	10270102	82	Secondary Contact Recreation
Little Cross Creek .....	10270102	61	Secondary Contact Recreation
Little Muddy Creek .....	10270102	99	Primary Contact Recreation
Loire Creek .....	10270102	80	Primary Contact Recreation
Lost Creek .....	10270102	60	Secondary Contact Recreation
Messhoss Creek .....	10270102	96	Primary Contact Recreation
Mud Creek .....	10270102	44	Secondary Contact Recreation
Mud Creek .....	10270102	56	Secondary Contact Recreation
Muddy Creek, West Fork .....	10270102	93	Secondary Contact Recreation
Mulberry Creek .....	10270102	42	Secondary Contact Recreation
Mulberry Creek .....	10270102	77	Secondary Contact Recreation
Nehring Creek .....	10270102	81	Primary Contact Recreation
Paw Paw Creek .....	10270102	75	Secondary Contact Recreation
Pleasant Hill Run Creek .....	10270102	23	Primary Contact Recreation
Pomeroy Creek .....	10270102	59	Secondary Contact Recreation
Post Creek .....	10270102	101	Secondary Contact Recreation
Pretty Creek .....	10270102	74	Secondary Contact Recreation
Rock Creek .....	10270102	21	Primary Contact Recreation
Rock Creek, East Fork .....	10270102	22	Secondary Contact Recreation
Ross Creek .....	10270102	35	Secondary Contact Recreation
Salt Creek .....	10270102	88	Secondary Contact Recreation
Sand Creek .....	10270102	65	Secondary Contact Recreation
Shunganunga Creek, South Branch .....	10270102	106	Primary Contact Recreation
Snake Creek .....	10270102	95	Secondary Contact Recreation
Snokomo Creek .....	10270102	85	Secondary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Spring Creek .....	10270102	48	Secondary Contact Recreation
Spring Creek .....	10270102	54	Primary Contact Recreation
Spring Creek .....	10270102	76	Secondary Contact Recreation
Spring Creek .....	10270102	105	Secondary Contact Recreation
Sullivan Creek .....	10270102	89	Primary Contact Recreation
Tecumseh Creek .....	10270102	107	Secondary Contact Recreation
Turkey Creek .....	10270102	71	Primary Contact Recreation
Unnamed Stream .....	10270102	8	Secondary Contact Recreation
Vassar Creek .....	10270102	100	Secondary Contact Recreation
Vermillion Creek .....	10270102	15	Primary Contact Recreation
Walnut Creek .....	10270102	91	Secondary Contact Recreation
Wells Creek .....	10270102	68	Secondary Contact Recreation
Whetstone Creek .....	10270102	104	Secondary Contact Recreation
Wilson Creek .....	10270102	50	Primary Contact Recreation
Wolf Creek .....	10270102	49	Primary Contact Recreation

**Subbasin: Delaware**

Banner Creek .....	10270103	45	Secondary Contact Recreation
Barnes Creek .....	10270103	39	Secondary Contact Recreation
Bills Creek .....	10270103	47	Secondary Contact Recreation
Brush Creek .....	10270103	44	Secondary Contact Recreation
Brush Creek .....	10270103	54	Primary Contact Recreation
Burr Oak Branch .....	10270103	8	Primary Contact Recreation
Catamount Creek .....	10270103	49	Primary Contact Recreation
Cedar Creek, North .....	10270103	46	Primary Contact Recreation
Claywell Creek .....	10270103	56	Primary Contact Recreation
Clear Creek .....	10270103	19	Primary Contact Recreation
Coal Creek .....	10270103	50	Primary Contact Recreation
Grasshopper Creek .....	10270103	18	Primary Contact Recreation
Grasshopper Creek .....	10270103	20	Primary Contact Recreation
Gregg Creek .....	10270103	24	Primary Contact Recreation
Honey Creek .....	10270103	55	Secondary Contact Recreation
Little Grasshopper Creek .....	10270103	16	Secondary Contact Recreation
Little Wild Horse Creek .....	10270103	57	Primary Contact Recreation
Mission Creek .....	10270103	40	Primary Contact Recreation
Nebo Creek .....	10270103	48	Secondary Contact Recreation
Negro Creek .....	10270103	43	Secondary Contact Recreation
Otter Creek .....	10270103	41	Secondary Contact Recreation
Plum Creek .....	10270103	36	Secondary Contact Recreation
Rock Creek .....	10270103	34	Primary Contact Recreation
Rock Creek .....	10270103	53	Primary Contact Recreation
Spring Creek .....	10270103	42	Primary Contact Recreation
Squaw Creek .....	10270103	38	Secondary Contact Recreation
Straight Creek .....	10270103	28	Secondary Contact Recreation
Tick Creek .....	10270103	52	Primary Contact Recreation
Unnamed Stream .....	10270103	31	Secondary Contact Recreation
Walnut Creek .....	10270103	51	Primary Contact Recreation
Wolfley Creek .....	10270103	27	Secondary Contact Recreation

**Subbasin: Lower Kansas**

Baldwin Creek .....	10270104	69	Secondary Contact Recreation
Brush Creek .....	10270104	49	Secondary Contact Recreation
Brush Creek, West .....	10270104	46	Secondary Contact Recreation
Buttermilk Creek .....	10270104	44	Secondary Contact Recreation
Camp Creek .....	10270104	41	Secondary Contact Recreation
Camp Creek .....	10270104	74	Secondary Contact Recreation
Captain Creek .....	10270104	72	Primary Contact Recreation
Chicken Creek .....	10270104	79	Secondary Contact Recreation
Clear Creek .....	10270104	383	Primary Contact Recreation
Cow Creek .....	10270104	58	Secondary Contact Recreation
Crooked Creek .....	10270104	10	Primary Contact Recreation
Crooked Creek .....	10270104	12	Primary Contact Recreation
Dawson Creek .....	10270104	45	Secondary Contact Recreation
Elk Creek .....	10270104	68	Primary Contact Recreation
Full Creek .....	10270104	52	Primary Contact Recreation
Hanson Creek .....	10270104	437	Secondary Contact Recreation
Hog Creek .....	10270104	54	Secondary Contact Recreation
Howard Creek .....	10270104	43	Secondary Contact Recreation
Hulls Branch .....	10270104	42	Secondary Contact Recreation
Indian Creek .....	10270104	48	Secondary Contact Recreation
Jarbalo Creek .....	10270104	51	Secondary Contact Recreation
Kent Creek .....	10270104	73	Secondary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Kill Creek .....	10270104	37	Primary Contact Recreation
Little Cedar Creek .....	10270104	76	Primary Contact Recreation
Little Mill Creek .....	10270104	78	Primary Contact Recreation
Little Turkey Creek .....	10270104	62	Primary Contact Recreation
Little Wakarusa Creek .....	10270104	71	Primary Contact Recreation
Mission Creek, East .....	10270104	61	Secondary Contact Recreation
Ninemile Creek .....	10270104	15	Secondary Contact Recreation
Ninemile Creek .....	10270104	17	Primary Contact Recreation
Oakley Creek .....	10270104	56	Secondary Contact Recreation
Plum Creek .....	10270104	50	Secondary Contact Recreation
Prairie Creek .....	10270104	47	Secondary Contact Recreation
Rock Creek .....	10270104	35	Primary Contact Recreation
Scatter Creek .....	10270104	13	Secondary Contact Recreation
Spoon Creek .....	10270104	75	Secondary Contact Recreation
Stone Horse Creek .....	10270104	57	Secondary Contact Recreation
Stranger Creek .....	10270104	7	Primary Contact Recreation
Stranger Creek .....	10270104	8	Primary Contact Recreation
Stranger Creek .....	10270104	9	Primary Contact Recreation
Tonganoxie Creek .....	10270104	14	Primary Contact Recreation
Tooley Creek .....	10270104	379	Secondary Contact Recreation
Turkey Creek .....	10270104	77	Primary Contact Recreation
Unnamed Stream .....	10270104	11	Primary Contact Recreation
Unnamed Stream .....	10270104	16	Secondary Contact Recreation
Wakarusa River, Middle Branch .....	10270104	64	Secondary Contact Recreation
Wakarusa River, South Branch .....	10270104	63	Primary Contact Recreation
Washington Creek .....	10270104	36	Primary Contact Recreation
Yankee Tank Creek .....	10270104	70	Primary Contact Recreation
<b>Subbasin: Lower Big Blue</b>			
Ackerman Creek .....	10270205	49	Secondary Contact Recreation
Black Vermillion River, Clear Fork .....	10270205	9	Primary Contact Recreation
Black Vermillion River, North Fork .....	10270205	15	Secondary Contact Recreation
Black Vermillion River, South Fork .....	10270205	12	Secondary Contact Recreation
Bluff Creek .....	10270205	573	Primary Contact Recreation
Bommer Creek .....	10270205	40	Secondary Contact Recreation
Busksnort Creek .....	10270205	566	Secondary Contact Recreation
Carter Creek .....	10270205	59	Secondary Contact Recreation
Cedar Creek .....	10270205	56	Secondary Contact Recreation
Corndodger Creek .....	10270205	52	Primary Contact Recreation
De Shazer Creek .....	10270205	55	Secondary Contact Recreation
Deadman Creek .....	10270205	60	Secondary Contact Recreation
Deer Creek .....	10270205	36	Secondary Contact Recreation
Dog Walk Creek .....	10270205	53	Secondary Contact Recreation
Dutch Creek .....	10270205	44	Primary Contact Recreation
Elm Creek .....	10270205	46	Secondary Contact Recreation
Elm Creek, North .....	10270205	41	Secondary Contact Recreation
Fancy Creek, North Fork .....	10270205	61	Secondary Contact Recreation
Fancy Creek, West .....	10270205	29	Primary Contact Recreation
Game Fork .....	10270205	54	Secondary Contact Recreation
Hop Creek .....	10270205	43	Secondary Contact Recreation
Indian Creek .....	10270205	37	Secondary Contact Recreation
Jim Creek .....	10270205	57	Secondary Contact Recreation
Johnson Fork .....	10270205	51	Secondary Contact Recreation
Kearney Branch .....	10270205	58	Secondary Contact Recreation
Lily Creek .....	10270205	39	Secondary Contact Recreation
Little Indian Creek .....	10270205	35	Secondary Contact Recreation
Little Timber Creek .....	10270205	48	Primary Contact Recreation
Meadow Creek .....	10270205	34	Secondary Contact Recreation
Mission Creek .....	10270205	22	Primary Contact Recreation
Murdock Creek .....	10270205	42	Secondary Contact Recreation
Otter Creek .....	10270205	67	Secondary Contact Recreation
Otter Creek, North .....	10270205	62	Primary Contact Recreation
Perkins Creek .....	10270205	47	Secondary Contact Recreation
Phiel Creek .....	10270205	68	Primary Contact Recreation
Raemer Creek .....	10270205	33	Primary Contact Recreation
Robidoux Creek .....	10270205	16	Primary Contact Recreation
Schell Creek .....	10270205	45	Primary Contact Recreation
School Branch .....	10270205	63	Secondary Contact Recreation
Scotch Creek .....	10270205	38	Secondary Contact Recreation
Spring Creek .....	10270205	19	Primary Contact Recreation
Spring Creek .....	10270205	65	Primary Contact Recreation
Timber Creek .....	10270205	64	Primary Contact Recreation
Weyer Creek .....	10270205	50	Secondary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
<b>Subbasin: Upper Little Blue</b>			
Dry Creek .....	10270206	41	Secondary Contact Recreation
<b>Subbasin: Lower Little Blue</b>			
Ash Creek .....	10270207	36	Secondary Contact Recreation
Beaver Creek .....	10270207	38	Secondary Contact Recreation
Bolling Creek .....	10270207	42	Secondary Contact Recreation
Bowman Creek .....	10270207	21	Secondary Contact Recreation
Buffalo Creek .....	10270207	32	Secondary Contact Recreation
Camp Creek .....	10270207	35	Secondary Contact Recreation
Camp Creek .....	10270207	44	Primary Contact Recreation
Cedar Creek .....	10270207	40	Secondary Contact Recreation
Cherry Creek .....	10270207	25	Secondary Contact Recreation
Coon Creek .....	10270207	23	Primary Contact Recreation
Fawn Creek .....	10270207	45	Secondary Contact Recreation
Gray Branch .....	10270207	27	Secondary Contact Recreation
Humphrey Branch .....	10270207	24	Secondary Contact Recreation
Iowa Creek .....	10270207	34	Secondary Contact Recreation
Jones Creek .....	10270207	29	Secondary Contact Recreation
Joy Creek .....	10270207	13	Secondary Contact Recreation
Lane Branch .....	10270207	39	Secondary Contact Recreation
Malone Creek .....	10270207	37	Secondary Contact Recreation
Melvin Creek .....	10270207	33	Secondary Contact Recreation
Mercer Creek .....	10270207	43	Primary Contact Recreation
Mill Creek, South Fork .....	10270207	31	Secondary Contact Recreation
Myer Creek .....	10270207	26	Secondary Contact Recreation
Riddle Creek .....	10270207	17	Secondary Contact Recreation
Rose Creek .....	10270207	12	Secondary Contact Recreation
Salt Creek .....	10270207	19	Primary Contact Recreation
School Creek .....	10270207	49	Primary Contact Recreation
Silver Creek .....	10270207	28	Primary Contact Recreation
Spring Creek .....	10270207	15	Secondary Contact Recreation
Spring Creek .....	10270207	30	Secondary Contact Recreation
Walnut Creek .....	10270207	41	Primary Contact Recreation
<b>Basin: Lower Arkansas</b>			
<b>Subbasin: Rattlesnake</b>			
Spring Creek .....	11030009	7	Secondary Contact Recreation
<b>Subbasin: Gar-Peace</b>			
Gar Creek .....	11030010	8	Primary Contact Recreation
<b>Subbasin: Cow</b>			
Blood Creek .....	11030011	15	Secondary Contact Recreation
Deception Creek .....	11030011	13	Secondary Contact Recreation
Dry Creek .....	11030011	22	Primary Contact Recreation
Jarvis Creek .....	11030011	19	Primary Contact Recreation
Little Cheyenne Creek .....	11030011	7	Primary Contact Recreation
Little Cow Creek .....	11030011	2	Primary Contact Recreation
Lost Creek .....	11030011	17	Secondary Contact Recreation
Owl Creek .....	11030011	18	Primary Contact Recreation
Plum Creek .....	11030011	4	Secondary Contact Recreation
Salt Creek .....	11030011	21	Primary Contact Recreation
Spring Creek .....	11030011	20	Secondary Contact Recreation
<b>Subbasin: Little Arkansas</b>			
Beaver Creek .....	11030012	26	Primary Contact Recreation
Bull Creek .....	11030012	24	Primary Contact Recreation
Dry Creek .....	11030012	22	Secondary Contact Recreation
Dry Turkey Creek .....	11030012	13	Primary Contact Recreation
Emma Creek .....	11030012	6	Primary Contact Recreation
Emma Creek .....	11030012	7	Primary Contact Recreation
Emma Creek, West .....	11030012	8	Primary Contact Recreation
Gooseberry Creek .....	11030012	17	Primary Contact Recreation
Horse Creek .....	11030012	19	Primary Contact Recreation
Jester Creek .....	11030012	2	Primary Contact Recreation
Jester Creek, East Fork .....	11030012	18	Primary Contact Recreation
Kisiwa Creek .....	11030012	15	Secondary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Lone Tree Creek .....	11030012	20	Secondary Contact Recreation
Mud Creek .....	11030012	16	Primary Contact Recreation
Running Turkey Creek .....	11030012	25	Secondary Contact Recreation
Salt Creek .....	11030012	21	Primary Contact Recreation
Sun Creek .....	11030012	11	Primary Contact Recreation
Turkey Creek .....	11030012	12	Secondary Contact Recreation
<b>Subbasin: Middle Arkansas—State</b>			
Antelope Creek .....	11030013	25	Primary Contact Recreation
Badger Creek .....	11030013	31	Primary Contact Recreation
Beaver Creek .....	11030013	29	Primary Contact Recreation
Beaver Creek .....	11030013	33	Primary Contact Recreation
Big Slough .....	11030013	11	Primary Contact Recreation
Big Slough, South Fork .....	11030013	35	Primary Contact Recreation
Bitter Creek .....	11030013	28	Primary Contact Recreation
Dry Creek .....	11030013	15	Primary Contact Recreation
Dry Creek .....	11030013	16	Primary Contact Recreation
Gypsum Creek .....	11030013	5	Primary Contact Recreation
Hargis Creek .....	11030013	24	Primary Contact Recreation
Lost Creek .....	11030013	23	Primary Contact Recreation
Negro Creek .....	11030013	20	Primary Contact Recreation
Oak Creek .....	11030013	26	Secondary Contact Recreation
Salt Creek .....	11030013	22	Primary Contact Recreation
Spring Creek .....	11030013	19	Primary Contact Recreation
Spring Creek .....	11030013	21	Primary Contact Recreation
Spring Creek .....	11030013	27	Primary Contact Recreation
Spring Creek .....	11030013	34	Primary Contact Recreation
Spring Creek .....	11030013	37	Primary Contact Recreation
Winser Creek .....	11030013	32	Primary Contact Recreation
<b>Subbasin: North Fork Ninnescah</b>			
Crow Creek .....	11030014	11	Primary Contact Recreation
Dooleyville Creek .....	11030014	8	Primary Contact Recreation
Goose Creek .....	11030014	10	Primary Contact Recreation
Ninnescah River, North Fork .....	11030014	1	Primary Contact Recreation
Ninnescah River, North Fork .....	11030014	5	Primary Contact Recreation
Ninnescah River, North Fork .....	11030014	6	Primary Contact Recreation
Red Rock Creek .....	11030014	12	Primary Contact Recreation
Rock Creek .....	11030014	13	Primary Contact Recreation
Silver Creek .....	11030014	7	Primary Contact Recreation
Spring Creek .....	11030014	14	Primary Contact Recreation
Wolf Creek .....	11030014	9	Primary Contact Recreation
<b>Subbasin: South Fork Ninnescah</b>			
Coon Creek .....	11030015	9	Primary Contact Recreation
Coon Creek .....	11030015	17	Primary Contact Recreation
Hunter Creek .....	11030015	14	Primary Contact Recreation
Mead Creek .....	11030015	10	Primary Contact Recreation
Mod Creek .....	11030015	19	Primary Contact Recreation
Natrona Creek .....	11030015	K38	Primary Contact Recreation
Negro Creek .....	11030015	13	Primary Contact Recreation
Nester Creek .....	11030015	15	Primary Contact Recreation
Ninnescah River, West Branch South Fork .....	11030015	5	Primary Contact Recreation
Painter Creek .....	11030015	7	Primary Contact Recreation
Pat Creek .....	11030015	11	Primary Contact Recreation
Petyt Creek .....	11030015	12	Primary Contact Recreation
Sand Creek .....	11030015	18	Primary Contact Recreation
Spring Creek .....	11030015	8	Primary Contact Recreation
Wild Run Creek .....	11030015	16	Primary Contact Recreation
<b>Subbasin: Ninnescah</b>			
Afton Creek .....	11030016	5	Primary Contact Recreation
Clearwater Creek .....	11030016	4	Primary Contact Recreation
Clearwater Creek .....	11030016	7	Primary Contact Recreation
Dry Creek .....	11030016	16	Primary Contact Recreation
Elm Creek .....	11030016	10	Primary Contact Recreation
Garvey Creek .....	11030016	11	Primary Contact Recreation
Sand Creek .....	11030016	14	Primary Contact Recreation
Silver Creek .....	11030016	12	Primary Contact Recreation
Spring Creek .....	11030016	2	Primary Contact Recreation
Spring Creek .....	11030016	15	Primary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Turtle Creek .....	11030016	13	Primary Contact Recreation
<b>Subbasin: Kaw Lake</b>			
Blue Branch .....	11060001	30	Primary Contact Recreation
Bullington Creek .....	11060001	28	Primary Contact Recreation
Cedar Creek .....	11060001	32	Primary Contact Recreation
Chilocco Creek .....	11060001	19	Primary Contact Recreation
Crabb Creek .....	11060001	29	Primary Contact Recreation
Ferguson Creek .....	11060001	38	Primary Contact Recreation
Franklin Creek .....	11060001	35	Primary Contact Recreation
Gardners Branch .....	11060001	39	Primary Contact Recreation
Goose Creek .....	11060001	34	Primary Contact Recreation
Myers Creek .....	11060001	24	Primary Contact Recreation
Otter Creek .....	11060001	20	Primary Contact Recreation
Pebble Creek .....	11060001	26	Primary Contact Recreation
Plum Creek .....	11060001	33	Primary Contact Recreation
Riley Creek .....	11060001	37	Primary Contact Recreation
School Creek .....	11060001	31	Primary Contact Recreation
Shellrock Creek .....	11060001	22	Primary Contact Recreation
Silver Creek .....	11060001	17	Primary Contact Recreation
Snake Creek .....	11060001	25	Primary Contact Recreation
Spring Creek .....	11060001	21	Primary Contact Recreation
Turkey Creek .....	11060001	27	Primary Contact Recreation
Wagoner Creek .....	11060001	36	Primary Contact Recreation
<b>Subbasin: Upper Salt Fork Arkansas</b>			
Ash Creek .....	11060002	20	Primary Contact Recreation
Big Sandy Creek .....	11060002	5	Primary Contact Recreation
Cave Creek .....	11060002	28	Primary Contact Recreation
Deadman Creek .....	11060002	22	Primary Contact Recreation
Dog Creek .....	11060002	29	Primary Contact Recreation
Hackberry Creek .....	11060002	23	Primary Contact Recreation
Indian Creek .....	11060002	9	Primary Contact Recreation
Inman Creek .....	11060002	21	Primary Contact Recreation
Mustang Creek .....	11060002	31	Primary Contact Recreation
Nescatunga Creek, East Branch .....	11060002	27	Primary Contact Recreation
Red Creek .....	11060002	16	Primary Contact Recreation
Spring Creek .....	11060002	24	Primary Contact Recreation
Wildcat Creek .....	11060002	12	Primary Contact Recreation
Yellowstone Creek .....	11060002	17	Primary Contact Recreation
<b>Subbasin: Medicine Lodge</b>			
Amber Creek .....	11060003	12	Primary Contact Recreation
Antelope Creek .....	11060003	22	Primary Contact Recreation
Bear Creek .....	11060003	13	Secondary Contact Recreation
Bitter Creek .....	11060003	18	Secondary Contact Recreation
Cedar Creek .....	11060003	20	Primary Contact Recreation
Cottonwood Creek .....	11060003	16	Primary Contact Recreation
Crooked Creek .....	11060003	11	Primary Contact Recreation
Little Mule Creek .....	11060003	9	Primary Contact Recreation
Dry Creek .....	11060003	21	Secondary Contact Recreation
Elm Creek, East Branch South .....	11060003	10	Primary Contact Recreation
Elm Creek, North Branch .....	11060003	4	Primary Contact Recreation
Elm Creek, South Branch .....	11060003	5	Primary Contact Recreation
Little Bear Creek .....	11060003	19	Primary Contact Recreation
Medicine Lodge River, North Branch .....	11060003	24	Secondary Contact Recreation
Mulberry Creek .....	11060003	14	Primary Contact Recreation
Otter Creek .....	11060003	25	Secondary Contact Recreation
Puckett Creek .....	11060003	15	Primary Contact Recreation
Sand Creek .....	11060003	17	Primary Contact Recreation
Soldier Creek .....	11060003	27	Secondary Contact Recreation
Stink Creek .....	11060003	28	Primary Contact Recreation
Turkey Creek .....	11060003	7	Primary Contact Recreation
Wilson Slough .....	11060003	23	Primary Contact Recreation
<b>Subbasin: Lower Salt Fork Arkansas</b>			
Camp Creek .....	11060004	68	Primary Contact Recreation
Cooper Creek .....	11060004	71	Primary Contact Recreation
Crooked Creek .....	11060004	24	Primary Contact Recreation
Little Sandy Creek .....	11060004	39	Primary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Little Sandy Creek, East Branch .....	11060004	65	Primary Contact Recreation
Osage Creek .....	11060004	17	Primary Contact Recreation
Plum Creek .....	11060004	70	Primary Contact Recreation
Pond Creek .....	11060004	18	Primary Contact Recreation
Rush Creek .....	11060004	69	Primary Contact Recreation
Salty Creek .....	11060004	40	Primary Contact Recreation
Sandy Creek .....	11060004	37	Primary Contact Recreation
Sandy Creek, West .....	11060004	56	Primary Contact Recreation
Spring Creek .....	11060004	66	Primary Contact Recreation
Unnamed Stream .....	11060004	25	Primary Contact Recreation

**Subbasin: Chikaskia**

Allen Creek .....	11060005	40	Primary Contact Recreation
Baehr Creek .....	11060005	22	Primary Contact Recreation
Beaver Creek .....	11060005	28	Primary Contact Recreation
Beaver Creek .....	11060005	46	Primary Contact Recreation
Big Spring Creek .....	11060005	34	Primary Contact Recreation
Bitter Creek .....	11060005	4	Primary Contact Recreation
Bitter Creek, East .....	11060005	16	Primary Contact Recreation
Blue Stem Creek .....	11060005	48	Primary Contact Recreation
Chicken Creek .....	11060005	36	Primary Contact Recreation
Copper Creek .....	11060005	42	Primary Contact Recreation
Dry Creek .....	11060005	17	Primary Contact Recreation
Duck Creek .....	11060005	32	Primary Contact Recreation
Fall Creek .....	11060005	14	Primary Contact Recreation
Fall Creek, East Branch .....	11060005	27	Primary Contact Recreation
Goose Creek .....	11060005	38	Primary Contact Recreation
Kemp Creek .....	11060005	49	Primary Contact Recreation
Long Creek .....	11060005	529	Primary Contact Recreation
Meridian Creek .....	11060005	20	Primary Contact Recreation
Prairie Creek .....	11060005	512	Primary Contact Recreation
Prairie Creek, East .....	11060005	516	Primary Contact Recreation
Prairie Creek, West .....	11060005	527	Primary Contact Recreation
Red Creek .....	11060005	43	Primary Contact Recreation
Rock Creek .....	11060005	23	Primary Contact Recreation
Rodgers Branch .....	11060005	26	Primary Contact Recreation
Rose Bud Creek .....	11060005	44	Primary Contact Recreation
Rush Creek .....	11060005	45	Primary Contact Recreation
Sand Creek .....	11060005	11	Primary Contact Recreation
Sand Creek, East .....	11060005	12	Primary Contact Recreation
Sandy Creek .....	11060005	30	Primary Contact Recreation
Shoo Fly Creek, East .....	11060005	19	Secondary Contact Recreation
Shore Creek .....	11060005	35	Primary Contact Recreation
Silver Creek .....	11060005	29	Primary Contact Recreation
Skunk Creek .....	11060005	39	Primary Contact Recreation
Spring Branch .....	11060005	21	Primary Contact Recreation
Wild Horse Creek .....	11060005	41	Primary Contact Recreation
Wildcat Creek .....	11060005	24	Primary Contact Recreation

**Basin: Marais Des Cygnes****Subbasin: Upper Marais Des Cygnes**

Appanoose Creek .....	10290101	16	Primary Contact Recreation
Appanoose Creek, East .....	10290101	89	Primary Contact Recreation
Batch Creek .....	10290101	86	Primary Contact Recreation
Blue Creek .....	10290101	81	Primary Contact Recreation
Bradshaw Creek .....	10290101	75	Primary Contact Recreation
Cedar Creek .....	10290101	66	Primary Contact Recreation
Cherry Creek .....	10290101	74	Primary Contact Recreation
Chicken Creek .....	10290101	70	Primary Contact Recreation
Chicken Creek .....	10290101	93	Primary Contact Recreation
Coal Creek .....	10290101	48	Primary Contact Recreation
Dry Creek .....	10290101	57	Primary Contact Recreation
Dry Creek .....	10290101	95	Primary Contact Recreation
Duck Creek .....	10290101	41	Primary Contact Recreation
Eightmile Creek .....	10290101	13	Primary Contact Recreation
Frog Creek .....	10290101	42	Primary Contact Recreation
Hard Fish Creek .....	10290101	47	Primary Contact Recreation
Hickory Creek .....	10290101	8	Primary Contact Recreation
Hill Creek .....	10290101	71	Primary Contact Recreation
Iantha Creek .....	10290101	62	Primary Contact Recreation
Jersey Creek .....	10290101	76	Primary Contact Recreation
Kenoma Creek .....	10290101	64	Primary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Little Rock Creek .....	10290101	73	Primary Contact Recreation
Long Creek .....	10290101	K36	Primary Contact Recreation
Locust Creek .....	10290101	69	Primary Contact Recreation
Middle Creek .....	10290101	50	Primary Contact Recreation
Mosquito Creek .....	10290101	52	Primary Contact Recreation
Mud Creek .....	10290101	49	Primary Contact Recreation
Mud Creek .....	10290101	78	Primary Contact Recreation
Mud Creek .....	10290101	91	Primary Contact Recreation
Mute Creek .....	10290101	92	Primary Contact Recreation
Ottawa Creek .....	10290101	K25	Primary Contact Recreation
Plum Creek .....	10290101	2	Primary Contact Recreation
Plum Creek .....	10290101	79	Primary Contact Recreation
Popcorn Creek .....	10290101	87	Primary Contact Recreation
Pottawatomie Creek, North Fork .....	10290101	65	Primary Contact Recreation
Pottawatomie Creek, South Fork .....	10290101	67	Primary Contact Recreation
Rock Creek .....	10290101	43	Primary Contact Recreation
Rock Creek .....	10290101	97	Primary Contact Recreation
Sac Branch, South Fork .....	10290101	54	Secondary Contact Recreation
Sac Creek .....	10290101	60	Primary Contact Recreation
Salt Creek .....	10290101	29	Primary Contact Recreation
Sand Creek .....	10290101	82	Primary Contact Recreation
Smith Creek .....	10290101	77	Primary Contact Recreation
Spring Creek .....	10290101	84	Primary Contact Recreation
Switzler Creek .....	10290101	80	Primary Contact Recreation
Tauy Creek .....	10290101	11	Primary Contact Recreation
Tauy Creek, West Fork .....	10290101	K26	Primary Contact Recreation
Tequa Creek .....	10290101	44	Primary Contact Recreation
Tequa Creek, East Branch .....	10290101	46	Primary Contact Recreation
Tequa Creek, South Branch .....	10290101	45	Primary Contact Recreation
Thomas Creek .....	10290101	72	Secondary Contact Recreation
Turkey Creek .....	10290101	4	Primary Contact Recreation
Turkey Creek .....	10290101	6	Primary Contact Recreation
Unnamed Stream .....	10290101	5	Primary Contact Recreation
Walnut Creek .....	10290101	90	Primary Contact Recreation
West Fork Eight Mile Creek .....	10290101	88	Primary Contact Recreation
Willow Creek .....	10290101	94	Primary Contact Recreation
Wilson Creek .....	10290101	83	Primary Contact Recreation
Wolf Creek .....	10290101	96	Primary Contact Recreation

**Subbasin: Lower Marais Des Cygnes**

Buck Creek .....	10290102	44	Primary Contact Recreation
Bull Creek .....	10290102	26	Secondary Contact Recreation
Davis Creek .....	10290102	38	Primary Contact Recreation
Dorsey Creek .....	10290102	22	Primary Contact Recreation
Elm Branch .....	10290102	48	Primary Contact Recreation
Elm Branch .....	10290102	53	Primary Contact Recreation
Elm Creek .....	10290102	40	Primary Contact Recreation
Hushpuckney Creek .....	10290102	37	Primary Contact Recreation
Jake Branch .....	10290102	54	Secondary Contact Recreation
Jordan Branch .....	10290102	36	Primary Contact Recreation
Little Bull Creek .....	10290102	51	Primary Contact Recreation
Little Sugar Creek .....	10290102	33	Primary Contact Recreation
Little Sugar Creek, North Fork .....	10290102	43	Primary Contact Recreation
Martin Creek .....	10290102	26	Primary Contact Recreation
Middle Creek .....	10290102	13	Primary Contact Recreation
Middle Creek .....	10290102	30	Primary Contact Recreation
Mound Creek .....	10290102	35	Primary Contact Recreation
Richland Creek .....	10290102	41	Primary Contact Recreation
Rock Creek .....	10290102	27	Primary Contact Recreation
Smith Branch .....	10290102	47	Primary Contact Recreation
Spring Creek .....	10290102	50	Primary Contact Recreation
Sugar Creek .....	10290102	42	Primary Contact Recreation
Turkey Creek .....	10290102	45	Primary Contact Recreation
Walnut Creek .....	10290102	14	Primary Contact Recreation
Walnut Creek .....	10290102	34	Primary Contact Recreation
Walnut Creek .....	10290102	52	Primary Contact Recreation
Wea Creek, North .....	10290102	21	Primary Contact Recreation
Wea Creek, South .....	10290102	18	Primary Contact Recreation
Wea Creek, South .....	10290102	19	Primary Contact Recreation
Wea Creek, South .....	10290102	20	Primary Contact Recreation

**Subbasin: Little Osage**

Clever Creek .....	10290103	7	Primary Contact Recreation
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Stream segment name	HUC8	Segment #	Designated use
Elk Creek .....	10290103	11	Primary Contact Recreation
Fish Creek .....	10290103	8	Primary Contact Recreation
Indian Creek .....	10290103	12	Primary Contact Recreation
Irish Creek .....	10290103	9	Primary Contact Recreation
Laberdie Creek, East .....	10290103	13	Primary Contact Recreation
Limestone Creek .....	10290103	5	Primary Contact Recreation
Lost Creek .....	10290103	10	Primary Contact Recreation
Reagan Branch .....	10290103	6	Primary Contact Recreation
<b>Subbasin: Marmaton</b>			
Buck Run .....	10290104	46	Primary Contact Recreation
Bunion Creek .....	10290104	39	Primary Contact Recreation
Cedar Creek .....	10290104	41	Primary Contact Recreation
Drywood Creek, Moores Branch .....	10290104	17	Primary Contact Recreation
Drywood Creek, West Fork .....	10290104	19	Primary Contact Recreation
Elm Creek .....	10290104	15	Secondary Contact Recreation
Hinton Creek .....	10290104	38	Primary Contact Recreation
Lath Branch .....	10290104	42	Primary Contact Recreation
Little Mill Creek .....	10290104	34	Primary Contact Recreation
Mill Creek .....	10290104	6	Primary Contact Recreation
Owl Creek .....	10290104	45	Primary Contact Recreation
Paint Creek .....	10290104	13	Primary Contact Recreation
Paint Creek .....	10290104	14	Primary Contact Recreation
Prong Creek .....	10290104	44	Secondary Contact Recreation
Robinson Branch .....	10290104	40	Primary Contact Recreation
Shiloh Creek .....	10290104	36	Primary Contact Recreation
Sweet Branch .....	10290104	30	Primary Contact Recreation
Tennyson Creek .....	10290104	31	Primary Contact Recreation
Turkey Creek .....	10290104	33	Primary Contact Recreation
Walnut Creek .....	10290104	32	Primary Contact Recreation
Walnut Creek .....	10290104	47	Primary Contact Recreation
Wolfpen Creek .....	10290104	37	Primary Contact Recreation
Wolverine Creek .....	10290104	35	Primary Contact Recreation
<b>Subbasin: South Grand</b>			
Harless Creek .....	10290108	67	Primary Contact Recreation
Poney Creek .....	10290108	48	Primary Contact Recreation
<b>Basin: Missouri</b>			
<b>Subbasin: Tarkio-Wolf</b>			
Cold Ryan Branch .....	10240005	70	Primary Contact Recreation
Coon Creek .....	10240005	71	Primary Contact Recreation
Halling Creek .....	10240005	68	Primary Contact Recreation
Mill Creek .....	10240005	52	Primary Contact Recreation
Rittenhouse Branch .....	10240005	69	Primary Contact Recreation
Spring Creek .....	10240005	65	Primary Contact Recreation
Striker Branch .....	10240005	72	Primary Contact Recreation
Wolf River, Middle Fork .....	10240005	67	Primary Contact Recreation
Wolf River, North Fork .....	10240005	66	Primary Contact Recreation
Wolf River, South Fork .....	10240005	57	Primary Contact Recreation
Unnamed Stream .....	10240005	55	Primary Contact Recreation
<b>Subbasin: South Fork Big Nemaha</b>			
Burger Creek .....	10240007	24	Secondary Contact Recreation
Deer Creek .....	10240007	18	Primary Contact Recreation
Fisher Creek .....	10240007	28	Primary Contact Recreation
Illinois Creek .....	10240007	30	Primary Contact Recreation
Rattlesnake Creek .....	10240007	27	Primary Contact Recreation
Rock Creek .....	10240007	20	Primary Contact Recreation
Tennessee Creek .....	10240007	29	Primary Contact Recreation
Turkey Creek .....	10240007	4	Primary Contact Recreation
Turkey Creek .....	10240007	5	Primary Contact Recreation
Wildcat Creek .....	10240007	23	Primary Contact Recreation
Wildcat Creek .....	10240007	22	Primary Contact Recreation
Wolf Pen Creek .....	10240007	25	Primary Contact Recreation
<b>Subbasin: Big Nemaha</b>			
Noharts Creek .....	10240008	42	Primary Contact Recreation
Pedee Creek .....	10240008	41	Primary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Pony Creek .....	10240008	38	Primary Contact Recreation
Roys Creek .....	10240008	40	Primary Contact Recreation

**Subbasin: Independence—Sugar**

Brush Creek .....	10240011	26	Primary Contact Recreation
Deer Creek .....	10240011	32	Primary Contact Recreation
Fivemile Creek .....	10240011	35	Primary Contact Recreation
Independence Creek, North Branch .....	10240011	29	Primary Contact Recreation
Jordan Creek .....	10240011	30	Primary Contact Recreation
Owl Creek .....	10240011	33	Primary Contact Recreation
Rock Creek .....	10240011	21	Primary Contact Recreation
Salt Creek .....	10240011	34	Primary Contact Recreation
Smith Creek .....	10240011	28	Primary Contact Recreation
Three Mile Creek .....	10240011	36	Primary Contact Recreation
Walnut Creek .....	10240011	23	Primary Contact Recreation
Walnut Creek .....	10240011	25	Primary Contact Recreation
White Clay Creek .....	10240011	31	Primary Contact Recreation
White Clay Creek .....	10240011	9031	Primary Contact Recreation
Whiskey Creek .....	10240011	235	Primary Contact Recreation
Whiskey Creek .....	10240011	9235	Primary Contact Recreation

**Subbasin: Lower Missouri—Crooked**

Brush Creek .....	10300101	54	Primary Contact Recreation
Camp Branch .....	10300101	56	Primary Contact Recreation
Coffee Creek .....	10300101	57	Primary Contact Recreation
Dyke Branch .....	10300101	55	Primary Contact Recreation
Indian Creek .....	10300101	32	Primary Contact Recreation
Negro Creek .....	10300101	58	Primary Contact Recreation
Tomahawk Creek .....	10300101	53	Primary Contact Recreation

**Basin: Neosho**

**Subbasin: Neosho Headwaters**

Allen Creek .....	11070201	5	Primary Contact Recreation
Badger Creek .....	11070201	45	Primary Contact Recreation
Big John Creek .....	11070201	37	Primary Contact Recreation
Bluff Creek .....	11070201	8	Primary Contact Recreation
Crooked Creek .....	11070201	35	Primary Contact Recreation
Dows Creek .....	11070201	3	Primary Contact Recreation
Dows Creek .....	11070201	4	Primary Contact Recreation
Eagle Creek .....	11070201	25	Primary Contact Recreation
Eagle Creek, South .....	11070201	47	Primary Contact Recreation
East Creek .....	11070201	39	Primary Contact Recreation
Elm Creek .....	11070201	36	Primary Contact Recreation
Fourmile Creek .....	11070201	24	Primary Contact Recreation
Fourmile Creek .....	11070201	48	Primary Contact Recreation
Haun Creek .....	11070201	29	Primary Contact Recreation
Horse Creek .....	11070201	33	Primary Contact Recreation
Kahola Creek .....	11070201	43	Primary Contact Recreation
Lairds Creek .....	11070201	30	Primary Contact Recreation
Lanos Creek .....	11070201	21	Primary Contact Recreation
Lebo Creek .....	11070201	51	Primary Contact Recreation
Munkers Creek, East Branch .....	11070201	31	Primary Contact Recreation
Munkers Creek, Middle Branch .....	11070201	32	Primary Contact Recreation
Neosho River, East Fork .....	11070201	18	Primary Contact Recreation
Neosho River, West Fork .....	11070201	28	Primary Contact Recreation
Parkers Creek .....	11070201	27	Primary Contact Recreation
Plum Creek .....	11070201	50	Primary Contact Recreation
Plumb Creek .....	11070201	49	Primary Contact Recreation
Rock Creek .....	11070201	7	Primary Contact Recreation
Rock Creek .....	11070201	9	Primary Contact Recreation
Rock Creek, East Branch .....	11070201	34	Primary Contact Recreation
Spring Creek .....	11070201	40	Primary Contact Recreation
Stillman Creek .....	11070201	44	Primary Contact Recreation
Taylor Creek .....	11070201	46	Primary Contact Recreation
Walker Branch .....	11070201	42	Primary Contact Recreation
Wolf Creek .....	11070201	41	Primary Contact Recreation
Wrights Creek .....	11070201	38	Primary Contact Recreation

**Subbasin: Upper Cottonwood**

Antelope Creek .....	11070202	19	Primary Contact Recreation
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Stream segment name	HUC8	Segment #	Designated use
Bills Creek .....	11070202	30	Primary Contact Recreation
Bruno Creek .....	11070202	27	Primary Contact Recreation
Catlin Creek .....	11070202	20	Primary Contact Recreation
Clear Creek .....	11070202	5	Primary Contact Recreation
Clear Creek, East Branch .....	11070202	24	Primary Contact Recreation
Coon Creek .....	11070202	32	Primary Contact Recreation
Cottonwood River, South .....	11070202	17	Primary Contact Recreation
Cottonwood River, South .....	11070202	18	Primary Contact Recreation
Doyle Creek .....	11070202	21	Primary Contact Recreation
French Creek .....	11070202	16	Primary Contact Recreation
Mud Creek .....	11070202	6	Primary Contact Recreation
Perry Creek .....	11070202	23	Primary Contact Recreation
Spring Branch .....	11070202	26	Primary Contact Recreation
Spring Creek .....	11070202	28	Primary Contact Recreation
Spring Creek .....	11070202	29	Primary Contact Recreation
Stony Brook .....	11070202	25	Primary Contact Recreation
Turkey Creek .....	11070202	31	Primary Contact Recreation

**Subbasin: Lower Cottonwood**

Beaver Creek .....	11070203	29	Primary Contact Recreation
Bloody Creek .....	11070203	40	Primary Contact Recreation
Buck Creek .....	11070203	39	Primary Contact Recreation
Buckeye Creek .....	11070203	44	Primary Contact Recreation
Bull Creek .....	11070203	26	Primary Contact Recreation
Camp Creek .....	11070203	14	Primary Contact Recreation
Coal Creek .....	11070203	43	Primary Contact Recreation
Collett Creek .....	11070203	21	Primary Contact Recreation
Corn Creek .....	11070203	47	Primary Contact Recreation
Coyne Branch .....	11070203	33	Primary Contact Recreation
Crocker Creek .....	11070203	46	Primary Contact Recreation
Dodds Creek .....	11070203	15	Primary Contact Recreation
Fox Creek .....	11070203	19	Primary Contact Recreation
French Creek .....	11070203	32	Primary Contact Recreation
Gannon Creek .....	11070203	24	Primary Contact Recreation
Gould Creek .....	11070203	36	Primary Contact Recreation
Holmes Creek .....	11070203	35	Primary Contact Recreation
Jacob Creek .....	11070203	28	Primary Contact Recreation
Kirk Creek .....	11070203	48	Primary Contact Recreation
Little Cedar Creek .....	11070203	11	Primary Contact Recreation
Little Cedar Creek .....	11070203	45	Primary Contact Recreation
Middle Creek .....	11070203	5	Primary Contact Recreation
Mile-and-a-half Creek .....	11070203	13	Secondary Contact Recreation
Moon Creek .....	11070203	31	Primary Contact Recreation
Mulvane Creek .....	11070203	22	Primary Contact Recreation
Peyton Creek .....	11070203	25	Primary Contact Recreation
Phenis Creek .....	11070203	30	Primary Contact Recreation
Pickett Creek .....	11070203	18	Primary Contact Recreation
Prather Creek .....	11070203	23	Primary Contact Recreation
Rock Creek .....	11070203	37	Primary Contact Recreation
Schaffer Creek .....	11070203	17	Primary Contact Recreation
School Creek .....	11070203	16	Primary Contact Recreation
Sharpes Creek .....	11070203	38	Primary Contact Recreation
Silver Creek .....	11070203	34	Primary Contact Recreation
Spring Creek .....	11070203	41	Primary Contact Recreation
Stout Run .....	11070203	27	Primary Contact Recreation
Stribby Creek .....	11070203	20	Primary Contact Recreation

**Subbasin: Upper Neosho**

Badger Creek .....	11070204	42	Primary Contact Recreation
Big Creek, North .....	11070204	16	Primary Contact Recreation
Big Creek, South .....	11070204	17	Primary Contact Recreation
Bloody Run .....	11070204	25	Primary Contact Recreation
Carlyle Creek .....	11070204	47	Primary Contact Recreation
Charles Branch .....	11070204	27	Primary Contact Recreation
Cherry Creek .....	11070204	20	Primary Contact Recreation
Coal Creek .....	11070204	4	Primary Contact Recreation
Cottonwood Creek .....	11070204	48	Primary Contact Recreation
Crooked Creek .....	11070204	44	Primary Contact Recreation
Draw Creek .....	11070204	34	Primary Contact Recreation
Goose Creek .....	11070204	29	Primary Contact Recreation
Long Creek .....	11070204	12	Primary Contact Recreation
Martin Creek .....	11070204	49	Primary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Mud Creek .....	11070204	26	Primary Contact Recreation
Mud Creek .....	11070204	31	Primary Contact Recreation
Onion Creek .....	11070204	24	Primary Contact Recreation
Owl Creek .....	11070204	19	Primary Contact Recreation
Owl Creek .....	11070204	21	Primary Contact Recreation
Plum Creek .....	11070204	22	Primary Contact Recreation
Rock Creek .....	11070204	7	Primary Contact Recreation
Rock Creek .....	11070204	23	Primary Contact Recreation
Rock Creek .....	11070204	15	Primary Contact Recreation
School Creek .....	11070204	38	Primary Contact Recreation
Scott Creek .....	11070204	40	Primary Contact Recreation
Slack Creek .....	11070204	30	Primary Contact Recreation
Spring Creek .....	11070204	46	Primary Contact Recreation
Sutton Creek .....	11070204	35	Primary Contact Recreation
Turkey Branch .....	11070204	28	Primary Contact Recreation
Turkey Creek .....	11070204	18	Primary Contact Recreation
Turkey Creek .....	11070204	32	Primary Contact Recreation
Twiss Creek .....	11070204	45	Primary Contact Recreation
Varvel Creek .....	11070204	43	Primary Contact Recreation
Village Creek .....	11070204	33	Primary Contact Recreation
Wolf Creek .....	11070204	37	Primary Contact Recreation

**Subbasin: Middle Neosho**

Bachelor Creek .....	11070205	40	Primary Contact Recreation
Canville Creek .....	11070205	16	Primary Contact Recreation
Center Creek .....	11070205	25	Primary Contact Recreation
Cherry Creek .....	11070205	4	Primary Contact Recreation
Deer Creek .....	11070205	27	Primary Contact Recreation
Denny Branch .....	11070205	31	Primary Contact Recreation
Elk Creek .....	11070205	19	Primary Contact Recreation
Elm Creek .....	11070205	43	Primary Contact Recreation
Flat Rock Creek .....	11070205	12	Primary Contact Recreation
Flat Rock Creek .....	11070205	14	Primary Contact Recreation
Fourmile Creek .....	11070205	49	Primary Contact Recreation
Grindstone Creek .....	11070205	42	Primary Contact Recreation
Hickory Creek .....	11070205	10	Primary Contact Recreation
Lake Creek .....	11070205	24	Primary Contact Recreation
Lightning Creek .....	11070205	6	Primary Contact Recreation
Lightning Creek .....	11070205	8	Primary Contact Recreation
Limestone Creek .....	11070205	7	Primary Contact Recreation
Little Cherry Creek .....	11070205	32	Primary Contact Recreation
Little Elk Creek .....	11070205	47	Primary Contact Recreation
Little Fly Creek .....	11070205	26	Secondary Contact Recreation
Little Labette Creek .....	11070205	23	Primary Contact Recreation
Little Walnut Creek .....	11070205	46	Primary Contact Recreation
Litup Creek .....	11070205	36	Primary Contact Recreation
Mulberry Creek .....	11070205	35	Primary Contact Recreation
Murphy Creek .....	11070205	41	Primary Contact Recreation
Ogeese Creek .....	11070205	38	Primary Contact Recreation
Pecan Creek .....	11070205	45	Primary Contact Recreation
Plum Creek .....	11070205	34	Primary Contact Recreation
Rock Creek .....	11070205	48	Primary Contact Recreation
Spring Creek .....	11070205	30	Primary Contact Recreation
Stink Branch .....	11070205	37	Primary Contact Recreation
Thunderbolt Creek .....	11070205	44	Primary Contact Recreation
Tolen Creek .....	11070205	39	Primary Contact Recreation
Town Creek .....	11070205	28	Primary Contact Recreation
Turkey Creek .....	11070205	29	Primary Contact Recreation
Walnut Creek .....	11070205	13	Primary Contact Recreation
Wolf Creek .....	11070205	33	Primary Contact Recreation

**Subbasin: Lake O' the Cherokees**

Fourmile Creek .....	11070206	18	Primary Contact Recreation
Tar Creek .....	11070206	19	Primary Contact Recreation

**Subbasin: Spring**

Little Shawnee Creek .....	11070207	22	Primary Contact Recreation
Long Branch .....	11070207	21	Primary Contact Recreation
Shawnee Creek .....	11070207	17	Primary Contact Recreation
Taylor Branch .....	11070207	25	Primary Contact Recreation
Willow Creek .....	11070207	20	Primary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
<b>Basin: Smoky Hill/Saline</b>			
<b>Subbasin: Middle Smoky Hill</b>			
Ash Creek .....	10260006	37	Primary Contact Recreation
Big Timber Creek .....	10260006	24	Primary Contact Recreation
Big Timber Creek .....	10260006	25	Primary Contact Recreation
Big Timber Creek .....	10260006	27	Primary Contact Recreation
Blood Creek .....	10260006	35	Secondary Contact Recreation
Buck Creek .....	10260006	29	Primary Contact Recreation
Buffalo Creek .....	10260006	6	Primary Contact Recreation
Clear Creek .....	10260006	42	Primary Contact Recreation
Coal Creek .....	10260006	34	Primary Contact Recreation
Cow Creek .....	10260006	38	Primary Contact Recreation
Eagle Creek .....	10260006	30	Primary Contact Recreation
Fossil Creek .....	10260006	13	Primary Contact Recreation
Goose Creek .....	10260006	39	Primary Contact Recreation
Landon Creek .....	10260006	31	Primary Contact Recreation
Loss Creek .....	10260006	44	Primary Contact Recreation
Mud Creek .....	10260006	47	Primary Contact Recreation
Oxide Creek .....	10260006	45	Primary Contact Recreation
Sellens Creek .....	10260006	32	Primary Contact Recreation
Shelter Creek .....	10260006	43	Primary Contact Recreation
Skunk Creek .....	10260006	48	Primary Contact Recreation
Spring Creek .....	10260006	41	Primary Contact Recreation
Timber Creek .....	10260006	26	Primary Contact Recreation
Turkey Creek .....	10260006	46	Primary Contact Recreation
Unnamed Stream .....	10260006	20	Primary Contact Recreation
Unnamed Stream .....	10260006	23	Primary Contact Recreation
Unnamed Stream .....	10260006	28	Primary Contact Recreation
Wilson Creek .....	10260006	40	Primary Contact Recreation
Wolf Creek .....	10260006	36	Primary Contact Recreation
<b>Subbasin: Lower Smoky Hill</b>			
Basket Creek .....	10260008	40	Primary Contact Recreation
Battle Creek .....	10260008	23	Primary Contact Recreation
Carry Creek .....	10260008	32	Primary Contact Recreation
Carry Creek .....	10260008	35	Primary Contact Recreation
Chapman Creek, West .....	10260008	5	Primary Contact Recreation
Dry Creek .....	10260008	36	Primary Contact Recreation
Dry Creek, East .....	10260008	43	Primary Contact Recreation
Hobbs Creek .....	10260008	48	Primary Contact Recreation
Holland Creek .....	10260008	25	Primary Contact Recreation
Holland Creek, East .....	10260008	27	Primary Contact Recreation
Holland Creek, West .....	10260008	26	Primary Contact Recreation
Kentucky Creek .....	10260008	17	Secondary Contact Recreation
Kentucky Creek, West .....	10260008	54	Primary Contact Recreation
Lone Tree Creek .....	10260008	41	Primary Contact Recreation
Lyon Creek, West Branch .....	10260008	34	Primary Contact Recreation
Mcallister Creek .....	10260008	49	Primary Contact Recreation
Middle Branch .....	10260008	58	Primary Contact Recreation
Mud Creek .....	10260008	8	Primary Contact Recreation
Otter Creek .....	10260008	42	Primary Contact Recreation
Paint Creek .....	10260008	52	Secondary Contact Recreation
Pewee Creek .....	10260008	56	Primary Contact Recreation
Sand Creek .....	10260008	46	Primary Contact Recreation
Sharps Creek .....	10260008	16	Secondary Contact Recreation
Spring Creek .....	10260008	45	Primary Contact Recreation
Stag Creek .....	10260008	19	Primary Contact Recreation
Turkey Creek .....	10260008	28	Primary Contact Recreation
Turkey Creek .....	10260008	30	Primary Contact Recreation
Turkey Creek, East .....	10260008	50	Primary Contact Recreation
Turkey Creek, West Branch .....	10260008	29	Primary Contact Recreation
Unnamed Stream .....	10260008	K3	Primary Contact Recreation
Unnamed Stream .....	10260008	K4	Primary Contact Recreation
Unnamed Stream .....	10260008	K24	Primary Contact Recreation
Wiley Creek .....	10260008	47	Primary Contact Recreation
<b>Subbasin: Upper Saline</b>			
Cedar Creek .....	10260009	30	Secondary Contact Recreation
Chalk Creek .....	10260009	26	Primary Contact Recreation
Coyote Creek .....	10260009	23	Primary Contact Recreation
Eagle Creek .....	10260009	6	Primary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Happy Creek .....	10260009	25	Primary Contact Recreation
Paradise Creek .....	10260009	5	Primary Contact Recreation
Salt Creek .....	10260009	20	Primary Contact Recreation
Spring Creek, East .....	10260009	10	Primary Contact Recreation
Sweetwater Creek .....	10260009	29	Primary Contact Recreation
Trego Creek .....	10260009	19	Primary Contact Recreation
Unnamed Stream .....	10260009	13	Primary Contact Recreation
Wild Horse Creek .....	10260009	27	Primary Contact Recreation

**Subbasin: Lower Saline**

Bacon Creek .....	10260010	7	Primary Contact Recreation
Blue Stem Creek .....	10260010	33	Primary Contact Recreation
Coon Creek .....	10260010	31	Primary Contact Recreation
Dry Creek .....	10260010	29	Secondary Contact Recreation
Eff Creek .....	10260010	23	Primary Contact Recreation
Elkhorn Creek .....	10260010	17	Primary Contact Recreation
Elkhorn Creek, West .....	10260010	38	Primary Contact Recreation
Fourmile Creek .....	10260010	30	Primary Contact Recreation
Lost Creek .....	10260010	34	Secondary Contact Recreation
Owl Creek .....	10260010	18	Primary Contact Recreation
Owl Creek .....	10260010	39	Primary Contact Recreation
Ralston Creek .....	10260010	28	Primary Contact Recreation
Shaw Creek .....	10260010	41	Primary Contact Recreation
Spillman Creek .....	10260010	6	Primary Contact Recreation
Spillman Creek, North Branch .....	10260010	8	Primary Contact Recreation
Spring Creek .....	10260010	16	Primary Contact Recreation
Spring Creek .....	10260010	19	Primary Contact Recreation
Spring Creek .....	10260010	20	Primary Contact Recreation
Spring Creek .....	10260010	24	Primary Contact Recreation
Spring Creek .....	10260010	26	Primary Contact Recreation
Spring Creek .....	10260010	27	Primary Contact Recreation
Table Rock Creek .....	10260010	40	Primary Contact Recreation
Trail Creek .....	10260010	32	Secondary Contact Recreation
Twelvemile Creek .....	10260010	36	Primary Contact Recreation
Twin Creek, West .....	10260010	37	Secondary Contact Recreation
West Spring Creek .....	10260010	25	Primary Contact Recreation
Wolf Creek .....	10260010	10	Primary Contact Recreation
Wolf Creek, East Fork .....	10260010	11	Primary Contact Recreation
Wolf Creek, West Fork .....	10260010	12	Primary Contact Recreation
Yauger Creek .....	10260010	35	Primary Contact Recreation

**Basin: Solomon****Subbasin: Upper North Fork Solomon**

Ash Creek .....	10260011	24	Primary Contact Recreation
Beaver Creek .....	10260011	23	Primary Contact Recreation
Big Timber Creek .....	10260011	8	Primary Contact Recreation
Bow Creek .....	10260011	15	Primary Contact Recreation
Cactus Creek .....	10260011	28	Primary Contact Recreation
Crooked Creek .....	10260011	6	Primary Contact Recreation
Elk Creek .....	10260011	12	Primary Contact Recreation
Elk Creek, East .....	10260011	25	Primary Contact Recreation
Game Creek .....	10260011	10	Primary Contact Recreation
Game Creek .....	10260011	27	Primary Contact Recreation
Lost Creek .....	10260011	20	Primary Contact Recreation
Sand Creek .....	10260011	26	Primary Contact Recreation
Scull Creek .....	10260011	21	Primary Contact Recreation
Spring Creek .....	10260011	19	Primary Contact Recreation
Wolf Creek .....	10260011	22	Primary Contact Recreation

**Subbasin: Lower North Fork Solomon**

Beaver Creek .....	10260012	10	Primary Contact Recreation
Beaver Creek, East Branch .....	10260012	11	Primary Contact Recreation
Beaver Creek, Middle .....	10260012	12	Primary Contact Recreation
Beaver Creek, Middle .....	10260012	13	Primary Contact Recreation
Beaver Creek, West .....	10260012	14	Secondary Contact Recreation
Big Creek .....	10260012	26	Primary Contact Recreation
Boughton Creek .....	10260012	34	Primary Contact Recreation
Buck Creek .....	10260012	43	Secondary Contact Recreation
Cedar Creek .....	10260012	16	Primary Contact Recreation
Cedar Creek .....	10260012	18	Primary Contact Recreation
Cedar Creek, East .....	10260012	17	Primary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Cedar Creek, East Middle .....	10260012	37	Primary Contact Recreation
Cedar Creek, Middle .....	10260012	19	Secondary Contact Recreation
Deer Creek .....	10260012	23	Primary Contact Recreation
Deer Creek .....	10260012	25	Primary Contact Recreation
Deer Creek .....	10260012	27	Primary Contact Recreation
Deer Creek .....	10260012	29	Primary Contact Recreation
Deer Creek .....	10260012	31	Primary Contact Recreation
Dry Creek .....	10260012	42	Primary Contact Recreation
Glen Rock Creek .....	10260012	41	Primary Contact Recreation
Lawrence Creek .....	10260012	44	Primary Contact Recreation
Lindley Creek .....	10260012	45	Primary Contact Recreation
Little Oak Creek .....	10260012	3	Primary Contact Recreation
Medicine Creek .....	10260012	33	Primary Contact Recreation
Oak Creek .....	10260012	2	Primary Contact Recreation
Oak Creek .....	10260012	4	Primary Contact Recreation
Oak Creek, East .....	10260012	40	Primary Contact Recreation
Oak Creek, West .....	10260012	39	Secondary Contact Recreation
Plotner Creek .....	10260012	30	Primary Contact Recreation
Plum Creek .....	10260012	20	Primary Contact Recreation
Spring Creek .....	10260012	8	Secondary Contact Recreation
Spring Creek .....	10260012	28	Secondary Contact Recreation
Starvation Creek .....	10260012	38	Primary Contact Recreation
Turner Creek .....	10260012	24	Primary Contact Recreation
<b>Subbasin: Upper South Fork Solomon</b>			
Spring Creek .....	10260013	5	Primary Contact Recreation
<b>Subbasin: Lower South Fork Solomon</b>			
Ash Creek .....	10260014	22	Primary Contact Recreation
Boxelder Creek .....	10260014	14	Primary Contact Recreation
Carr Creek .....	10260014	21	Primary Contact Recreation
Covert Creek .....	10260014	19	Primary Contact Recreation
Crooked Creek .....	10260014	27	Primary Contact Recreation
Dibble Creek .....	10260014	23	Primary Contact Recreation
Elm Creek .....	10260014	15	Primary Contact Recreation
Jim Creek .....	10260014	25	Primary Contact Recreation
Kill Creek .....	10260014	18	Primary Contact Recreation
Kill Creek, East .....	10260014	28	Primary Contact Recreation
Lost Creek .....	10260014	13	Primary Contact Recreation
Lucky Creek .....	10260014	26	Primary Contact Recreation
Medicine Creek .....	10260014	16	Primary Contact Recreation
Medicine Creek .....	10260014	17	Primary Contact Recreation
Robbers Roost Creek .....	10260014	24	Primary Contact Recreation
Twin Creek .....	10260014	20	Primary Contact Recreation
Twin Creek, East .....	10260014	29	Primary Contact Recreation
<b>Subbasin: Solomon River</b>			
Cow Creek .....	10260015	28	Primary Contact Recreation
Fifth Creek .....	10260015	45	Secondary Contact Recreation
Granite Creek .....	10260015	24	Secondary Contact Recreation
Leban Creek .....	10260015	41	Secondary Contact Recreation
Mill Creek .....	10260015	38	Secondary Contact Recreation
Mulberry Creek .....	10260015	36	Secondary Contact Recreation
Pipe Creek .....	10260015	9	Primary Contact Recreation
Walnut Creek .....	10260015	26	Secondary Contact Recreation
<b>Basin: Upper Arkansas</b>			
<b>Subbasin: Buckner</b>			
Buckner Creek, South Fork .....	11030006	6	Primary Contact Recreation
Duck Creek .....	11030006	8	Secondary Contact Recreation
Elm Creek .....	11030006	5	Primary Contact Recreation
Saw Log Creek .....	11030006	3	Primary Contact Recreation
Saw Log Creek .....	11030006	4	Secondary Contact Recreation
<b>Subbasin: Lower Walnut Creek</b>			
Alexander Dry Creek .....	11030008	7	Secondary Contact Recreation
Bazine Creek .....	11030008	9	Secondary Contact Recreation
Boot Creek .....	11030008	15	Secondary Contact Recreation
Dry Creek .....	11030008	14	Secondary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Dry Walnut Creek .....	11030008	13	Secondary Contact Recreation
Otter Creek .....	11030008	12	Primary Contact Recreation
Sand Creek .....	11030008	3	Secondary Contact Recreation
Sandy Creek .....	11030008	11	Secondary Contact Recreation
Walnut Creek .....	11030008	1	Primary Contact Recreation
Walnut Creek .....	11030008	2	Primary Contact Recreation
Walnut Creek .....	11030008	4	Primary Contact Recreation

**Basin: Upper Republican**  
**Subbasin: South Fork Republican**

Big Timber Creek .....	10250003	61	Secondary Contact Recreation
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**Subbasin: Beaver**

Beaver Creek .....	10250014	2	Secondary Contact Recreation
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**Basin: Verdigris**  
**Subbasin: Upper Verdigris**

Bachelor Creek .....	11070101	21	Primary Contact Recreation
Bernard Creek .....	11070101	24	Secondary Contact Recreation
Big Cedar Creek .....	11070101	39	Primary Contact Recreation
Brazil Creek .....	11070101	31	Primary Contact Recreation
Buffalo Creek .....	11070101	2	Primary Contact Recreation
Buffalo Creek, West .....	11070101	34	Primary Contact Recreation
Cedar Creek .....	11070101	32	Primary Contact Recreation
Chetopa Creek .....	11070101	22	Primary Contact Recreation
Crooked Creek .....	11070101	38	Primary Contact Recreation
Dry Creek .....	11070101	27	Primary Contact Recreation
Elder Branch .....	11070101	37	Primary Contact Recreation
Fancy Creek .....	11070101	28	Primary Contact Recreation
Greenhall Creek .....	11070101	26	Primary Contact Recreation
Holderman Creek .....	11070101	47	Primary Contact Recreation
Homer Creek .....	11070101	20	Primary Contact Recreation
Kelly Branch .....	11070101	42	Primary Contact Recreation
Kuntz Branch .....	11070101	29	Primary Contact Recreation
Little Sandy Creek .....	11070101	33	Primary Contact Recreation
Long Creek .....	11070101	45	Primary Contact Recreation
Miller Creek .....	11070101	30	Primary Contact Recreation
Moon Branch .....	11070101	43	Primary Contact Recreation
Onion Creek .....	11070101	23	Primary Contact Recreation
Rock Creek .....	11070101	14	Primary Contact Recreation
Ross Branch .....	11070101	35	Primary Contact Recreation
Sandy Creek .....	11070101	4	Primary Contact Recreation
Shaw Creek .....	11070101	40	Primary Contact Recreation
Slate Creek .....	11070101	25	Primary Contact Recreation
Snake Creek .....	11070101	36	Primary Contact Recreation
Tate Branch Creek .....	11070101	44	Primary Contact Recreation
Van Horn Creek .....	11070101	46	Primary Contact Recreation
Verdigris River, Bernard Branch .....	11070101	16	Primary Contact Recreation
Verdigris River, North Branch .....	11070101	13	Primary Contact Recreation
Verdigris River, North Branch .....	11070101	15	Primary Contact Recreation
Walnut Creek .....	11070101	19	Primary Contact Recreation
West Creek .....	11070101	17	Primary Contact Recreation
Wolf Creek .....	11070101	41	Primary Contact Recreation

**Subbasin: Fall**

Battle Creek .....	11070102	18	Primary Contact Recreation
Burnt Creek .....	11070102	24	Primary Contact Recreation
Clear Creek .....	11070102	37	Primary Contact Recreation
Coon Creek .....	11070102	25	Primary Contact Recreation
Coon Creek .....	11070102	36	Primary Contact Recreation
Crain Creek .....	11070102	32	Primary Contact Recreation
Honey Creek .....	11070102	26	Primary Contact Recreation
Indian Creek .....	11070102	15	Primary Contact Recreation
Ivanpah Creek .....	11070102	19	Primary Contact Recreation
Kitty Creek .....	11070102	27	Primary Contact Recreation
Little Indian Creek .....	11070102	34	Primary Contact Recreation
Little Salt Creek .....	11070102	35	Primary Contact Recreation
Oleson Creek .....	11070102	21	Primary Contact Recreation
Otis Creek .....	11070102	20	Primary Contact Recreation
Plum Creek .....	11070102	30	Primary Contact Recreation



Stream segment name	HUC8	Segment #	Designated use
Rainbow Creek, East .....	11070102	17	Primary Contact Recreation
Salt Creek .....	11070102	14	Primary Contact Recreation
Salt Creek .....	11070102	38	Primary Contact Recreation
Silver Creek .....	11070102	33	Primary Contact Recreation
Snake Creek .....	11070102	31	Primary Contact Recreation
Spring Creek .....	11070102	12	Primary Contact Recreation
Swing Creek .....	11070102	989	Primary Contact Recreation
Tadpole Creek .....	11070102	29	Primary Contact Recreation
Watson Branch .....	11070102	23	Primary Contact Recreation

**Subbasin: Middle Verdigris**

Big Creek .....	11070103	21	Primary Contact Recreation
Biscuit Creek .....	11070103	53	Primary Contact Recreation
Bluff Run .....	11070103	54	Primary Contact Recreation
Choteau Creek .....	11070103	63	Primary Contact Recreation
Claymore Creek .....	11070103	50	Primary Contact Recreation
Deadman Creek .....	11070103	57	Primary Contact Recreation
Deer Creek .....	11070103	51	Primary Contact Recreation
Drum Creek .....	11070103	34	Primary Contact Recreation
Dry Creek .....	11070103	37	Primary Contact Recreation
Fawn Creek .....	11070103	56	Primary Contact Recreation
Mud Creek .....	11070103	59	Primary Contact Recreation
Onion Creek .....	11070103	39	Primary Contact Recreation
Potato Creek .....	11070103	31	Primary Contact Recreation
Prior Creek .....	11070103	62	Primary Contact Recreation
Pumpkin Creek .....	11070103	28	Primary Contact Recreation
Richland Creek .....	11070103	49	Primary Contact Recreation
Rock Creek .....	11070103	58	Primary Contact Recreation
Rock Creek .....	11070103	61	Primary Contact Recreation
Snow Creek .....	11070103	25	Primary Contact Recreation
Spring Creek .....	11070103	55	Primary Contact Recreation
Sycamore Creek .....	11070103	52	Primary Contact Recreation
Wildcat Creek .....	11070103	60	Primary Contact Recreation

**Subbasin: Elk**

Bachelor Creek .....	11070104	25	Primary Contact Recreation
Bloody Run .....	11070104	26	Primary Contact Recreation
Bull Creek .....	11070104	33	Primary Contact Recreation
Card Creek .....	11070104	19	Primary Contact Recreation
Chetopa Creek .....	11070104	18	Primary Contact Recreation
Clear Creek .....	11070104	30	Primary Contact Recreation
Clear Creek .....	11070104	32	Primary Contact Recreation
Coffey Branch .....	11070104	20	Primary Contact Recreation
Duck Creek .....	11070104	3	Primary Contact Recreation
Elk River, Mound Branch .....	11070104	15	Primary Contact Recreation
Elk River, South Branch .....	11070104	38	Primary Contact Recreation
Elk River, Rowe Branch .....	11070104	39	Primary Contact Recreation
Elm Branch .....	11070104	23	Primary Contact Recreation
Hickory Creek .....	11070104	28	Primary Contact Recreation
Hitchen Creek .....	11070104	7	Primary Contact Recreation
Hitchen Creek, East .....	11070104	35	Primary Contact Recreation
Little Duck Creek .....	11070104	24	Primary Contact Recreation
Little Hitchen Creek .....	11070104	37	Primary Contact Recreation
Painterhood Creek .....	11070104	5	Primary Contact Recreation
Painterhood Creek, East .....	11070104	36	Primary Contact Recreation
Pan Creek .....	11070104	27	Primary Contact Recreation
Pawpaw Creek .....	11070104	11	Primary Contact Recreation
Racket Creek .....	11070104	21	Primary Contact Recreation
Rock Creek .....	11070104	13	Primary Contact Recreation
Salt Creek .....	11070104	17	Primary Contact Recreation
Salt Creek, South .....	11070104	29	Primary Contact Recreation
Skull Creek .....	11070104	31	Primary Contact Recreation
Snake Creek .....	11070104	34	Primary Contact Recreation
Sycamore Creek .....	11070104	22	Primary Contact Recreation
Wildcat Creek .....	11070104	16	Primary Contact Recreation

**Subbasin: Caney**

Bachelor Creek .....	11070106	47	Primary Contact Recreation
Bee Creek .....	11070106	9	Primary Contact Recreation
California Creek .....	11070106	48	Primary Contact Recreation
Caney Creek .....	11070106	12	Primary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Caney River, East Fork .....	11070106	52	Primary Contact Recreation
Caney Creek, North .....	11070106	11	Primary Contact Recreation
Cedar Creek .....	11070106	30	Primary Contact Recreation
Cedar Creek .....	11070106	32	Primary Contact Recreation
Cheyenne Creek .....	11070106	40	Primary Contact Recreation
Coon Creek .....	11070106	36	Primary Contact Recreation
Corum Creek .....	11070106	51	Primary Contact Recreation
Cotton Creek .....	11070106	38	Primary Contact Recreation
Cotton Creek, North Fork .....	11070106	37	Primary Contact Recreation
Dry Creek .....	11070106	29	Primary Contact Recreation
Fly Creek .....	11070106	46	Primary Contact Recreation
Illinois Creek .....	11070106	39	Primary Contact Recreation
Jim Creek .....	11070106	49	Primary Contact Recreation
Lake Creek .....	11070106	34	Primary Contact Recreation
Otter Creek .....	11070106	33	Primary Contact Recreation
Pool Creek .....	11070106	43	Primary Contact Recreation
Possum Trot Creek .....	11070106	74	Primary Contact Recreation
Rock Creek .....	11070106	28	Primary Contact Recreation
Spring Creek .....	11070106	44	Primary Contact Recreation
Spring Creek .....	11070106	53	Primary Contact Recreation
Squaw Creek .....	11070106	42	Primary Contact Recreation
Sycamore Creek .....	11070106	31	Primary Contact Recreation
Turkey Creek .....	11070106	45	Primary Contact Recreation
Union Creek .....	11070106	41	Primary Contact Recreation
Wolf Creek .....	11070106	35	Primary Contact Recreation
Wolf Creek .....	11070106	50	Primary Contact Recreation

**Basin: Walnut**

**Subbasin: Upper Walnut River**

Badger Creek .....	11030017	36	Primary Contact Recreation
Bemis Creek .....	11030017	8	Primary Contact Recreation
Cole Creek .....	11030017	15	Primary Contact Recreation
Constant Creek .....	11030017	41	Primary Contact Recreation
Dry Creek .....	11030017	27	Primary Contact Recreation
Dry Creek .....	11030017	32	Primary Contact Recreation
Durechen Creek .....	11030017	12	Primary Contact Recreation
Elm Creek .....	11030017	43	Primary Contact Recreation
Fourmile Creek .....	11030017	20	Primary Contact Recreation
Gilmore Branch .....	11030017	39	Primary Contact Recreation
Gypsum Creek .....	11030017	30	Primary Contact Recreation
Henry Creek .....	11030017	33	Primary Contact Recreation
Lower Branch .....	11030017	42	Primary Contact Recreation
Prairie Creek .....	11030017	35	Primary Contact Recreation
Rock Creek .....	11030017	37	Primary Contact Recreation
Sand Creek .....	11030017	29	Primary Contact Recreation
Satchel Creek .....	11030017	10	Primary Contact Recreation
School Branch .....	11030017	45	Primary Contact Recreation
Sutton Creek .....	11030017	40	Primary Contact Recreation
Walnut Creek .....	11030017	44	Primary Contact Recreation
Whitewater Creek .....	11030017	34	Primary Contact Recreation
Whitewater Creek, East Branch .....	11030017	31	Primary Contact Recreation
Whitewater River, East Branch .....	11030017	22	Primary Contact Recreation
Whitewater River, West Branch .....	11030017	24	Primary Contact Recreation
Whitewater River, West Branch .....	11030017	25	Primary Contact Recreation
Wildcat Creek .....	11030017	26	Primary Contact Recreation
Wildcat Creek, West .....	11030017	28	Primary Contact Recreation

**Subbasin: Lower Walnut River**

Black Crook Creek .....	11030018	18	Primary Contact Recreation
Cedar Creek .....	11030018	19	Secondary Contact Recreation
Chigger Creek .....	11030018	21	Primary Contact Recreation
Crooked Creek .....	11030018	31	Primary Contact Recreation
Durham Creek .....	11030018	23	Primary Contact Recreation
Dutch Creek .....	11030018	2	Primary Contact Recreation
Dutch Creek .....	11030018	4	Primary Contact Recreation
Eightmile Creek .....	11030018	30	Primary Contact Recreation
Foos Creek .....	11030018	26	Primary Contact Recreation
Hickory Creek .....	11030018	12	Primary Contact Recreation
Honey Creek .....	11030018	33	Primary Contact Recreation
Little Dutch Creek .....	11030018	27	Primary Contact Recreation
Lower Dutch Creek .....	11030018	20	Primary Contact Recreation
Plum Creek .....	11030018	36	Primary Contact Recreation

Stream segment name	HUC8	Segment #	Designated use
Polecat Creek .....	11030018	17	Primary Contact Recreation
Posey Creek .....	11030018	37	Primary Contact Recreation
Richland Creek .....	11030018	25	Primary Contact Recreation
Rock Creek, North Branch .....	11030018	35	Primary Contact Recreation
Sanford Creek .....	11030018	29	Primary Contact Recreation
Spring Branch .....	11030018	32	Primary Contact Recreation
Stalter Branch .....	11030018	24	Primary Contact Recreation
Stewart Creek .....	11030018	28	Primary Contact Recreation
Swisher Branch .....	11030018	22	Primary Contact Recreation
<b>Total = 1186</b>			

Lake name	County	Designated use
<b>Basin: Cimarron</b>		
<b>Subbasin: Upper Cimarron (HUC 11040002)</b>		
Moss Lake East .....	MORTON .....	Primary Contact Recreation
Moss Lake West .....	MORTON .....	Primary Contact Recreation
<b>Subbasin: North Fork Cimarron (HUC 11040006)</b>		
Russell Lake .....	STEVENS .....	Primary Contact Recreation
<b>Subbasin: Upper Cimarron-Bluff (HUC 11040008)</b>		
Clark State Fishing Lake .....	CLARK .....	Primary Contact Recreation
Saint Jacob's Well .....	CLARK .....	Primary Contact Recreation
<b>Basin: Kansas/Lower Republican</b>		
<b>Subbasin: Middle Republican (HUC 10250016)</b>		
Lake Jewell .....	JEWELL .....	Primary Contact Recreation
<b>Subbasin: Lower Republican (HUC 10250017)</b>		
Belleville City Lake .....	REPUBLIC .....	Primary Contact Recreation
Wakefield Lake .....	CLAY .....	Primary Contact Recreation
<b>Subbasin: Middle Kansas (HUC 10270102)</b>		
Alma City Reservoir .....	WABAUNSEE .....	Primary Contact Recreation
Cedar Crest Pond .....	SHAWNEE .....	Primary Contact Recreation
Central Park Lake .....	SHAWNEE .....	Primary Contact Recreation
Gage Park Lake .....	SHAWNEE .....	Primary Contact Recreation
Jeffrey Energy Center Lakes .....	POTTAWATOMIE .....	Primary Contact Recreation
<b>Subbasin: Delaware (HUC 10270103)</b>		
Atchison County Park Lake .....	ATCHISON .....	Primary Contact Recreation
Little Lake .....	BROWN .....	Primary Contact Recreation
<b>Subbasin: Lower Kansas (HUC 10270104)</b>		
Douglas County State Lake .....	DOUGLAS .....	Primary Contact Recreation
Lenexa Lake .....	JOHNSON .....	Primary Contact Recreation
Mahaffie Farmstead Pond .....	JOHNSON .....	Primary Contact Recreation
Pierson Park Lake .....	WYANDOTTE .....	Primary Contact Recreation
Waterworks Lakes .....	JOHNSON .....	Primary Contact Recreation
<b>Subbasin: Lower Big Blue (HUC 10270205)</b>		
Lake Idlewild .....	MARSHALL .....	Primary Contact Recreation
<b>Subbasin: Lower Little Blue (HUC 10270207)</b>		
Washington County State Fishing Lake .....	WASHINGTON .....	Primary Contact Recreation
<b>Basin: Lower Arkansas</b>		
<b>Subbasin: Rattlesnake (HUC 11030009)</b>		
Kiowa County State Fishing Lake .....	KIOWA .....	Primary Contact Recreation

Lake name	County	Designated use
<b>Subbasin: Cow (HUC 11030011)</b>		
Barton Lake .....	BARTON .....	Primary Contact Recreation
Sterling City Lake .....	RICE .....	Primary Contact Recreation
<b>Subbasin: Little Arkansas (HUC 11030012)</b>		
Dillon Park Lakes #1 .....	RENO .....	Primary Contact Recreation
Dillon Park Lake #2 .....	RENO .....	Primary Contact Recreation
Newton City Park Lake .....	HARVEY .....	Primary Contact Recreation
<b>Subbasin: Middle Arkansas-Slate (HUC 11030013)</b>		
Belaire Lake .....	SEDGWICK .....	Primary Contact Recreation
Buffalo Park Lake .....	SEDGWICK .....	Primary Contact Recreation
Emery Park .....	SEDGWICK .....	Primary Contact Recreation
Harrison Park Lake .....	SEDGWICK .....	Primary Contact Recreation
Riggs Park Lake .....	SEDGWICK .....	Primary Contact Recreation
<b>Subbasin: South Fork Ninescah (HUC 11030015)</b>		
Lemon Park Lake .....	PRATT .....	Primary Contact Recreation
<b>Subbasin: Medicine Lodge (HUC 11060003)</b>		
Barber County State Fishing Lake .....	BARBER .....	Primary Contact Recreation
<b>Subbasin: Lower Salt Fork Arkansas (HUC 11060004)</b>		
Hargis Lake .....	BARBER .....	Primary Contact Recreation
<b>Basin: Marais Des Cygnes</b>		
<b>Subbasin: Upper Marais Des Cygnes (HUC 10290101)</b>		
Allen City Lake .....	LYON .....	Primary Contact Recreation
Cedar Creek Lake .....	ANDERSON .....	Primary Contact Recreation
Crystal Lake .....	ANDERSON .....	Primary Contact Recreation
Lyon County State Fishing Lake .....	LYON .....	Primary Contact Recreation
Osage City Reservoir .....	OSAGE .....	Primary Contact Recreation
Waterworks Impoundment .....	ANDERSON .....	Primary Contact Recreation
<b>Subbasin: Lower Marais Des Cygnes (HUC 10290102)</b>		
Edgerton City Lake .....	JOHNSON .....	Primary Contact Recreation
Edgerton South Lake .....	JOHNSON .....	Primary Contact Recreation
Lake LaCygne .....	LINN .....	Primary Contact Recreation
Louisburg State Fishing Lake .....	MIAMI .....	Primary Contact Recreation
Miami County State Fishing Lake .....	MIAMI .....	Primary Contact Recreation
Paola City Lake .....	MIAMI .....	Primary Contact Recreation
Pleasanton Lake #1 .....	LINN .....	Primary Contact Recreation
Pleasanton Lake #2 .....	LINN .....	Primary Contact Recreation
Spring Hill City Lake .....	JOHNSON .....	Primary Contact Recreation
<b>Subbasin: Marmaton (HUC 10290104)</b>		
Gunn Park Lake, East .....	BOURBON .....	Primary Contact Recreation
Gunn Park Lake, West .....	BOURBON .....	Primary Contact Recreation
Rock Creek Lake .....	BOURBON .....	Primary Contact Recreation
<b>Basin: Missouri</b>		
<b>Subbasin: South Fork Big Nemaha (HUC 10240007)</b>		
Pony Creek Lake .....	NEMAHA .....	Primary Contact Recreation
Sabetha City Lake .....	NEMAHA .....	Primary Contact Recreation
<b>Subbasin: Independence-Sugar (HUC 10240011)</b>		
Atchison City Lakes .....	ATCHISON .....	Primary Contact Recreation
Big Eleven Lake .....	WYANDOTTE .....	Primary Contact Recreation
Doniphan Fair Association Lake .....	DONIPHAN .....	Primary Contact Recreation
Jerrys Lake .....	LEAVENWORTH .....	Primary Contact Recreation
Lansing City Lake .....	LEAVENWORTH .....	Primary Contact Recreation
South Park Lake .....	LEAVENWORTH .....	Primary Contact Recreation

Lake name	County	Designated use
<b>Subbasin: Lower Missouri-Crooked (HUC 10300101)</b>		
Prairie View Park .....	JOHNSON .....	Primary Contact Recreation
South Park Lake .....	JOHNSON .....	Primary Contact Recreation
Stanley Rural Water District Lake #2 .....	JOHNSON .....	Primary Contact Recreation
Stohl Park Lake .....	JOHNSON .....	Primary Contact Recreation
<b>Basin: Neosho</b>		
<b>Subbasin: Lower Cottonwood (HUC 11070203)</b>		
Peter Pan Pond .....	LYON .....	Primary Contact Recreation
<b>Subbasin: Upper Neosho (HUC 11070204)</b>		
Chanute City (Santa Fe) Lake .....	NEOSHO .....	Primary Contact Recreation
Leonard's Lake .....	WOODSON .....	Primary Contact Recreation
<b>Subbasin: Middle Neosho (HUC 11070205)</b>		
Altamont City Lake #1 .....	LABETTE .....	Primary Contact Recreation
Bartlett City Lake .....	LABETTE .....	Primary Contact Recreation
Harmon Wildlife Area Lakes .....	LABETTE .....	Primary Contact Recreation
Mined Land Wildlife Area Lakes .....	CHEROKEE .....	Primary Contact Recreation
Timber Lake .....	NEOSHO .....	Primary Contact Recreation
<b>Subbasin: Spring (HUC 11070207)</b>		
Empire Lake .....	CHEROKEE .....	Primary Contact Recreation
Frontenac City Park .....	CRAWFORD .....	Primary Contact Recreation
Mined Land Wildlife Area Lakes .....	CRAWFORD .....	Primary Contact Recreation
Pittsburg College Lake .....	CRAWFORD .....	Primary Contact Recreation
Playters Lake .....	CRAWFORD .....	Primary Contact Recreation
<b>Basin: Smoky Hill/Saline</b>		
<b>Subbasin: Lower Smoky Hill (HUC 10260008)</b>		
Herington City Park Lake .....	DICKINSON .....	Primary Contact Recreation
Herington Reservoir .....	DICKINSON .....	Primary Contact Recreation
<b>Basin: Solomon</b>		
<b>Subbasin: Lower North Fork Solomon (HUC 10260012)</b>		
Francis Wachs Wildlife Area Lakes .....	SMITH .....	Primary Contact Recreation
<b>Subbasin: Solomon River (HUC 10260015)</b>		
Jewell County State Fishing Lake .....	JEWELL .....	Primary Contact Recreation
Ottawa County State Fishing Lake .....	OTTAWA .....	Primary Contact Recreation
<b>Basin: Upper Arkansas</b>		
<b>Subbasin: Middle Arkansas-Lake McKinney (HUC 11030001)</b>		
Lake McKinney .....	KEARNY .....	Primary Contact Recreation
<b>Subbasin: Arkansas-Dodge City (HUC 11030003)</b>		
Lake Charles .....	FORD .....	Primary Contact Recreation
<b>Subbasin: Pawnee (HUC 11030005)</b>		
Concannon State Fishing Lake .....	FINNEY .....	Primary Contact Recreation
Finney County Game Refuge Lakes .....	FINNEY .....	Primary Contact Recreation
<b>Subbasin: Buckner (HUC 11030006)</b>		
Ford County Lake .....	FORD .....	Primary Contact Recreation
Hain State Fishing Lake .....	FORD .....	Primary Contact Recreation
<b>Subbasin: Upper Walnut Creek (HUC 11030007)</b>		
Goodman State Fishing Lake .....	NESS .....	Primary Contact Recreation
<b>Subbasin: Lower Walnut Creek (HUC 11030008)</b>		
Memorial Park Lake .....	BARTON .....	Primary Contact Recreation

Lake name	County	Designated use
Stone Lake .....	BARTON .....	Primary Contact Recreation
<b>Basin: Verdigris</b>		
<b>Subbasin: Upper Verdigris (HUC 11070101)</b>		
Quarry Lake .....	WILSON .....	Primary Contact Recreation
Thayer New City Lake .....	NEOSHO .....	Primary Contact Recreation
<b>Subbasin: Middle Verdigris (HUC 11070103)</b>		
La Claire Lake .....	MONTGOMERY .....	Primary Contact Recreation
Pfister Park Lakes .....	MONTGOMERY .....	Primary Contact Recreation
<b>Subbasin: Caney (HUC 11070106)</b>		
Caney City Lake .....	CHAUTAUQUA .....	Primary Contact Recreation
<b>Basin: Walnut</b>		
<b>Subbasin: Lower Walnut River (HUC 11030018)</b>		
Butler County State Fishing Lake .....	BUTLER .....	Primary Contact Recreation
Winfield Park Lagoon .....	COWLEY .....	Primary Contact Recreation
<b>Total = 100</b>		

(c) Water quality standard variances.

(1) The Regional Administrator, EPA Region 7, is authorized to grant variances from the water quality standards in paragraphs (a) and (b) of this section where the requirements of this paragraph (c) are met. A water quality standard variance applies only to the permittee requesting the variance and only to the pollutant or pollutants specified in the variance; the underlying water quality standard otherwise remains in effect.

(2) A water quality standard variance shall not be granted if:

(i) Standards will be attained by implementing effluent limitations required under sections 301(b) and 306 of the CWA and by the permittee implementing reasonable best management practices for nonpoint source control; or

(ii) The variance would likely jeopardize the continued existence of any threatened or endangered species listed under section 4 of the Endangered Species Act or result in the destruction or adverse modification of such species' critical habitat.

(3) Subject to paragraph (c)(2) of this section, a water quality standards variance may be granted if the applicant demonstrates to EPA that attaining the water quality standard is not feasible because:

(i) Naturally occurring pollutant concentrations prevent the attainment of the use; or

(ii) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met; or

(iii) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or

(iv) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way which would result in the attainment of the use; or

(v) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like unrelated to water quality, preclude attainment of aquatic life protection uses; or

(vi) Controls more stringent than those required by sections 301(b) and 306 of the CWA would result in substantial and widespread economic and social impact.

(4) Procedures. An applicant for a water quality standards variance shall submit a request to the Regional Administrator of EPA Region 7. The application shall include all relevant

information showing that the requirements for a variance have been satisfied. The burden is on the applicant to demonstrate to EPA's satisfaction that the designated use is unattainable for one of the reasons specified in paragraph (c)(3) of this section. If the Regional Administrator preliminarily determines that grounds exist for granting a variance, he shall provide public notice of the proposed variance and provide an opportunity for public comment. Any activities required as a condition of the Regional Administrator's granting of a variance shall be included as conditions of the NPDES permit for the applicant. These terms and conditions shall be incorporated into the applicant's NPDES permit through the permit reissuance process or through a modification of the permit pursuant to the applicable permit modification provisions of Kansas' NPDES program

(5) A variance may not exceed 3 years or the term of the NPDES permit, whichever is less. A variance may be renewed if the applicant reapplies and demonstrates that the use in question is still not attainable. Renewal of the variance may be denied if the applicant did not comply with the conditions of the original variance, or otherwise does not meet the requirements of this section.