

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 136**

[FRL-7462-9]

**Technical Support Document for the Assessment of Detection and Quantitation Concepts****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of document availability and public comment period.

**SUMMARY:** Today's action announces the availability of a recent assessment of detection and quantitation procedures used by EPA to determine the sensitivity of analytical (test) methods under EPA's Clean Water Act (CWA). EPA's method detection limit (MDL) and minimum level of quantitation (ML) are used to define test sensitivity under the CWA. The MDL is used to determine the lowest concentration at which a substance is detected or is "present" in a sample. The ML appears in many EPA methods and has been used to describe the lowest concentration of a substance that gives a recognizable signal, or as a quantitation limit. The Assessment Document includes an evaluation of the MDL and ML procedures and alternative approaches for defining test sensitivity. This Assessment Document has been peer-reviewed and is now available for public review and comment.

**DATES:** Comments must be postmarked, delivered by hand, or electronically mailed on or before July 10, 2003. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. Eastern Time on July 10, 2003.

**ADDRESSES:** Comments may be submitted by mail to Water Docket, U.S. Environmental Protection Agency (4101T), 1200 Pennsylvania Avenue NW., Washington DC 20460, or electronically through EPA Dockets at <http://www.epa.gov/edocket/>, Attention Docket ID No. OW-2003-0003. See Unit C of the **SUPPLEMENTARY INFORMATION** section for additional ways to submit comments and more detailed instructions.

**FOR FURTHER INFORMATION CONTACT:** William Telliard; Engineering and Analysis Division (4303T); Office of Science and Technology; Office of Water; U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Avenue NW., Washington, DC 20460, or call (202) 566-1061 or e-mail at [telliard.william@epa.gov](mailto:telliard.william@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. How Can I Get Copies of This Document and Other Related Information?*

1. Docket. EPA has established an official public docket for this action under Docket ID No. OW-2003-0003. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426.

2. Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in I.A.1.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment

contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

*B. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. However, late comments may be considered if time permits.

1. Electronically. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in Docket ID No. OW-2003-0003. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to *OW-docket@epa.gov* Attention Docket ID No. OW-2003-0003. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in I.B.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send an original and three copies of your comments to: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. OW-2003-0003.

3. *By Hand Delivery or Courier.* Deliver your comments to EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. OW-2003-0003. Such deliveries are only accepted during the Docket's normal hours of operation as identified in I.A.1.

#### C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or

CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline.

8. Ensure proper receipt by EPA by identifying the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### II. Summary of EPA's Assessment

EPA completed an assessment for determining the sensitivity of analytical test methods (*i.e.*, procedures for determining detection and quantitation) and their application to Clean Water Act (CWA) programs. The assessment examines the method detection limit (MDL) and minimum level of quantitation (ML) procedures currently used by the Agency for determining test sensitivity for CWA applications. It also considers alternative concepts and procedures. EPA conducted the assessment to partially fulfill certain provisions of a settlement agreement

with the Alliance of Automobile Manufacturers, *et al.*, which is discussed further below.

On June 8, 1999, EPA published a final rule adding EPA Method 1631, Revision B: Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry (Method 1631) to the "Guidelines Establishing Test Procedures for the Analysis of Pollutants" under section 304(h) of the Clean Water Act. Following promulgation, the Alliance of Automobile Manufacturers, the Chemical Manufacturers Association, and the Utility Water Act Group ("Petitioners") and the American Forest and Paper Association ("Intervenor") filed a lawsuit challenging the method. The challenge addressed specific aspects of EPA Method 1631 as well as the general procedures used to establish the method detection limit (MDL) and minimum level of quantitation (ML) specified in the method. On October 19, 2000, EPA entered into a settlement agreement with the Petitioners and Intervenor (*Alliance of Automobile Manufacturers, et al. v. EPA*, No. 99-1420 (D.C. Cir.); the "settlement agreement").

Clause 6 of the settlement agreement provides for EPA to assess existing Agency and alternative procedures for determining detection and quantitation limits under the Clean Water Act and to sign a notice for publication in the **Federal Register** on or before February 28, 2003, inviting comment on the assessment. The settlement agreement further provides for EPA to submit its assessment to formal peer review by experts in the fields of analytical chemistry and in the statistical aspects of analytical data interpretation. EPA drafted an Assessment Document describing the issues associated with the assessment process, the detection and quantitation concepts and procedures evaluated, the criteria used for the evaluation, the evaluation results, and the conclusions of the assessment. EPA then conducted a peer review of the draft Assessment Document in August 2002. As stipulated in the settlement agreement, EPA provided the draft Assessment Document to the Petitioners and Intervenor for concurrent review and comment in August 2002.

Following peer review, EPA revised the Assessment Document to incorporate peer review comments. The revised assessment is contained in a document titled, "Technical Support Document for the Assessment of Detection and Quantitation Concepts" (EPA 821-R-03-005, February, 2003), or "Assessment Document." The

Assessment Document, the peer review comments, and comments from the Petitioners and Intervenor are available in the docket for this notice. The purpose of this notice is specifically to request comment on the Assessment Document.

Elsewhere in today's **Federal Register**, the Agency is proposing revisions to the MDL definition and procedure codified at 40 CFR part 136, Appendix B, and is also proposing to add a definition of the ML at 40 CFR 136.2. The proposed revisions are based on the findings from the assessment and are fully discussed in the proposed rule. To comment on these proposed revisions, readers are referred to the Proposed Rules section of today's **Federal Register** for the Guidelines Establishing Test Procedures for the Analysis of Pollutants; Procedures for Detection and Quantitation.

The settlement agreement stipulates that EPA's assessment of concepts and procedures for detection and quantitation be submitted for public review and comment for a period of no less than 120 days. The settlement agreement also requires EPA to sign a final notice taking action on the assessment on or before September 30, 2004. By this notice, EPA invites the public to comment on the Assessment Document. The public comment period is open for 120 days and will close on July 10, 2003.

After EPA considers public comments, it will publish a notice taking final action on the assessment by September 30, 2004.

Dated: February 28, 2003.

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

[FR Doc. 03-5711 Filed 3-11-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 600

[I.D. 022403D]

#### **Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)**

**AGENCY:** Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS)

**ACTION:** Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

**SUMMARY:** The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject EFP application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFPs would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue EFPs. Therefore, NMFS announces that the Regional Administrator proposes to issue EFPs that would allow four vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFPs would exempt these vessels from minimum mesh size requirements of the Gulf of Maine (GOM) and Georges Bank (GB) Regulated Mesh Areas (RMAs) and from the seasonal GOM Rolling Closure Areas II and III. The proposed experiment would test a separator panel designed to separate haddock from cod in the GOM and GB RMAs. All experimental work would be monitored by Manomet Center for Conservation Sciences (Manomet) personnel. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before March 27, 2003.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Manomet Separator Trawl EFP Proposal." Comments may also be sent via fax to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:**  
Heather Sagar, Fisheries Management Specialist, 978-281-9104.

**SUPPLEMENTARY INFORMATION:** An initial application from Manomet was received on December 6, 2002, and the application was completed on January 31, 2003. The proposed study would test a modified trawl net with a separator panel, designed to separate haddock from cod. The modified net would be built with a 4-inch mesh horizontal separator panel dividing the

trawl codend into an upper and lower codend. Both codends would be constructed with legal minimum mesh size and the net would be fully compliant with current regulations except for the insertion of a small mesh separator panel. The study would involve four phases. The first phase would consist of development and construction of a separator trawl net. Phase two would involve a series of sea trials conducted with an underwater video camera to ensure that the trawl and separator panel are fishing properly. Trials would take place in shallow water to ensure high quality video imaging. This process would take up to 2 days. Phase three would be the experimental sea trials. Four commercial vessels would fish 5 days each, making approximately five tows per day for a total of 100 tows for this portion of the study. Tow length would be approximately 30 minutes and experimental tows would mimic normal fishing practices. This would result in a total of 22 sea days for the entire study (including 2 days for preliminary sea trials). Participating vessels would be required to notify NMFS prior to commencing an experimental fishing trip. The final phase of the experiment would be data analysis and reporting, including a video analysis.

The proposed study area would take place off the coast of Cape Cod, MA, inside the area defined by the following coordinates: 42°15' N. lat., 70°15' W. long.; 42°15' N. lat., 69°30' W. long.; 42°00' N. lat., 69°30' W. long.; 42°00' N. lat., 68°30' W. long.; 41°30' N. lat., 68°30' W. long.; 41°30' N. lat. 70°00' W. long. following the Cape Cod shoreline north to 42°00' N. lat., 70°00' W. long.; 42°00' N. lat., 70°15' W. long.; and 42°15' N. lat., 70°15' W. long. Areas subjected to permanent closures would be avoided. The EFPs would allow for exemptions from the GOM and GB RMA minimum mesh size requirements specified at 50 CFR 648.80(a)(1) and (a)(2), and seasonal GOM Rolling Closure Areas II and III specified at 50 CFR 648.81(g).

Under this experiment, target species would be cod, haddock, yellowtail flounder, American plaice, witch flounder, pollock, and windowpane flounder. Incidental species would include skate, smooth dogfish, spiny dogfish, sculpins, sea raven and sea robin. All biological and environmental information would be recorded by trained observers (supplied by Manomet) on relevant NMFS observer logbooks. Each participating vessel would have an observer on board. All catch would be sorted and weighed on board the vessel. In addition, all