Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 7, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–6566 Filed 3–16–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OH132–1; KY116–1;KY84–1; FRL–6562–1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio and Kentucky; Reopening of the Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of the public comment period.

SUMMARY: EPA is reopening the public comment period for a proposed rule published on January 24, 2000 (65 FR 3630). In the January 24, 2000 proposed rule, EPA proposed to determine that the Cincinnati-Hamilton moderate ozone nonattainment area (Cincinnati-Hamilton area) has attained the public health based 1-hour ozone National Ambient Air Quality Standard (NAAQS). EPA proposed to determine that certain attainment demonstration requirements, along with certain other related requirements, of part D of Title 1 of the Clean Air Act (CAA) are not applicable to the Cincinnati-Hamilton area. The EPA proposed to approve the State of Ohio Environmental Protection Agency's and the Commonwealth of Kentucky Natural Resources and Environmental Protection Cabinet's requests to redesignate the Cincinnati-Hamilton ozone nonattainment area to attainment of the 1-hour ozone NAAQS. EPA re-proposed to approve an exemption from the nitrogen oxides (NO_X) requirements as provided for in section 182(f) of the CAA for the Kentucky portion of the Cincinnati-Hamilton area. EPA solicited public comment on the Ohio and Kentucky requests and on EPA's proposed actions. At the request of the Ohio Chapter of the Sierra Club, EPA is reopening the comment period through March 24, 2000. All comments received before March 24, 2000, including those received between the close of the comment period on February 23, 2000 and the publication of this proposed rule, will be entered into the public record and considered by EPA before taking final action on the proposed rule.

DATES: Comments must be received on or before March 24, 2000.

ADDRESSES: Written comments should be addressed to:

J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Kay Prince, Chief, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT:

William Jones, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6058, (jones.william@EPA.gov).

Karla L. McCorkle, Environmental Scientist, Regulatory Planning Section, Air Planning Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303, 404–562–9043, (mccorkle.karla@epa.gov).

Dated: March 10, 2000.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

[FR Doc. 00–6713 Filed 3–16–00; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Centers for Disease Control and Prevention

42 CFR Part 493

[HCFA–2233–N]

RIN 0938–AH35

CLIA Program; Cytology Proficiency Testing

AGENCY: Health Care Financing Administration (HCFA), Centers for Disease Control and Prevention (CDC), HHS.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document announces the withdrawal of a proposed rule on cytology proficiency testing that was published in the **Federal Register** November 30, 1995 (60 FR 61509). We published the proposed rule to comply with a court order that we revise the regulations to require that cytology proficiency testing (PT) be conducted, ''to the extent practicable, under normal working conditions,'' which the court interpreted to be at a pace corresponding to the maximum workload rate for individuals examining cytology slides. After the proposed rule was published, the appeals court overturned the lower court's ruling and remanded the regulation to us for completion of rulemaking or to provide our rationale for the original position we took with respect to cytology proficiency testing. This document withdraws the proposed rule and also contains a supplementary statement of rationale, in accordance with the appeals court ruling.

DATES: The proposed rule is withdrawn as of April 17, 2000.

FOR FURTHER INFORMATION CONTACT: Rhonda S. Whalen (770) 488–8155.

SUPPLEMENTARY INFORMATION:

I. Background

On February 28, 1992, we published a final rule with comment period in the **Federal Register** (57 FR 7002) to implement the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578). One provision of CLIA, section 353(f)(4)(B)(i) of the Public Health Service Act (PHS Act), required the Department to establish a limit on the maximum number of cytology slides that an individual could examine daily, in order to ensure that he or she has sufficient time to adequately examine each slide. CLIA also required

the Department to establish standards for the conduct of cytology proficiency testing (PT), with such testing ''to take place, to the extent practicable, under normal working conditions'' (section 353(f)(4)(B)(iv) of the PHS Act).

The February 28, 1992 final rule, at 42 CFR 493.1257(b)(1) and (b)(3)(i), established a maximum daily workload limit for personnel examining cytology slides in a normal work day. Under the regulations, cytology personnel may examine no more than 100 slides in any 24 hour period, and must have at least 8 hours to complete the examination of 100 slides, which results in an average of 12.5 slides per hour. This limit was established in order to ensure that an individual has sufficient time to adequately examine each slide.

CLIA also required the Department to develop a program for testing the proficiency of individuals who perform cytology examinations. The statute states that proficiency testing is to take place, to the extent practicable, under normal working conditions (section 353(f)(4)(B)(iv) of the PHS Act). The February 28, 1992 final rule, at § 493.855(b), provides that an individual must complete a 10-slide proficiency test in 2 hours and, if necessary, a 20-slide test in 4 hours. We established a lower slide examination rate for PT because a test contains a higher number of abnormal slides than a cytologist would encounter in a normal work day. We believe that a test that uses a higher number of abnormal slides more accurately assesses the skills of the cytologist.

II. Court Challenge

The Consumer Federation of America and Public Citizen challenged the regulations in the United States District Court for the District of Columbia, arguing that the PT rate of five slides per hour did not conform to normal working conditions, since it is substantially less than the 12.5 slides per hour maximum permissible workload. The district court agreed, invalidated that portion of the regulations, and ordered us to publish new proposed regulations, within 90 days of the order, that would modify the rate of cytology proficiency testing to ensure that individuals would be tested, to the extent practicable, under normal working conditions, which the district court interpreted to be at a pace corresponding to the maximum workload rate for individuals examining cytology slides. The district court order also provided that the February 28, 1992 final cytology proficiency testing regulations would remain in effect pending the issuance of a revised final rule. *Consumer Federation of America and Public Citizen* v. *Department of Health and Human Services,* 906 F.Supp. 657, 668 (D.D.C. 1995).

In compliance with the district court's order, we published a proposed rule in the **Federal Register** on November 30, 1995 (60 FR 61509). The rule proposed to modify the timeframe for completing a cytology proficiency test to equal the maximum workload rate of 12.5 slides per hour. However, in the preamble, we restated our belief that the timeframe in the original rule met the statutory requirement, and indicated the Department was appealing the district court's ruling, and seeking reinstatement of the February 28, 1992 cytology PT regulations.

In a decision dated May 21, 1996, the United States Court of Appeals for the District of Columbia Circuit reversed the district court's ruling and sent back the regulation for us to either offer an adequate explanation for the original cytology PT rule or to complete the rulemaking (*Consumer Federation of America and Public Citizen* v. *Department of Health and Human Services,* 83 F.3d 1497, 1506–07 (D.C. Cir. 1996). We continue to believe that our regulations are appropriate, and we are supplying a supplementary statement that further explains the rationale behind our policy. Our supplementary statement of rationale follows in section IV. of this notice.

III. Withdrawal of Proposed Rule

For the reasons discussed above, we are withdrawing the November 30, 1995 proposed rule. We believe that the February 28, 1992 final rule appropriately fulfills the statutory requirement that cytology proficiency testing be conducted, to the extent practicable, under normal working conditions.

IV. Supplementary Statement of Rationale

In compliance with the court's ruling, we received a memorandum from the Centers for Disease Control and Prevention (CDC) that sets forth the rationale for Cytology Proficiency Testing. This memorandum is part of the rulemaking record and appears as an addendum to this document.

Authority: Section 353 of the Public Health Act (42 U.S.C. 263a).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 29, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: March 2, 1999.

Jeffrey P. Koplan,

Director, Centers for Disease Control and Prevention.

Dated: May 14, 1999.

Donna E. Shalala,

Secretary.

Note: This document was received at the Office of the Federal Register on March 13, 2000.

Addendum—Supplementary Statement of Rationale for Cytology Proficiency Testing

MEMORANDUM

September 1, 1998

TO: Sue Brown, Director, Division of Regulations and Issuances.

FROM: Carlyn Collins, M.D., M.P.H., Director, Division of Laboratory Systems.

SUBJECT: HSQ–176–FC; Supplement to Rulemaking Record Re: Cytology Proficiency Testing.

This memorandum supplements the rulemaking record for HSQ–176–FC (57 FR 7002), which was published to implement the Clinical Laboratory Improvement Amendments of 1988 (CLIA). This memorandum is intended to provide further explanation for the timeframe established in that section of the CLIA final rule pertaining to completion of cytology proficiency tests (42 CFR 493.855). It is submitted to fulfill the order of the United States Court of Appeals for the District of Columbia Circuit in *Consumer Federation of America and Public Citizen* v. *Department of Health and Human Services*, 83 F.3d 1497 (D.C. Cir. 1996).

A. Background

On February 28, 1992, the Department of Health and Human Services published a final rule with comment period in the **Federal Register** (57 FR 7002) to implement the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578, codified at 42 U.S.C. 263a). One provision of CLIA, 42 U.S.C. 263a(f)(4)(B)(i), required the Department to establish a limit on the maximum number of cytology slides that a cytologist could examine daily, in order to assure that the cytologist had sufficient time to adequately examine each slide. CLIA also required the Department to establish standards for the conduct of cytology proficiency testing (PT), with such testing ''to take place, to the extent practicable, under normal working conditions.'' 42 U.S.C. 263a(f)(4)(B)(iv).

The February 28, 1992 final rule established a maximum daily work rate of no more than 100 slides in a 24 hour period, which, assuming an eight hour workday, averaged 12.5 slides per hour. 42 CFR 493.1257(b). The cytology PT requirement published in the final rule allows up to two hours for an individual to complete a 10-slide PT test, and up to four hours to complete a 20-slide PT test challenge. 42 CFR 493.855(b).

The Consumer Federation of America and Public Citizen challenged the regulations in the United States District Court for the District of Columbia, arguing that the PT testing rate of five slides/hour did not conform to ''normal working conditions,'' since it is substantially less than the 12.5 slides/hour maximum permissible workload. The district court agreed, invalidated that portion of the regulations, and ordered the Department to publish new proposed regulations, within 90 days of the order, that would modify the rate of cytology proficiency testing to ensure that individuals would be tested ''to the extent practicable, under normal working conditions,'' which the district court interpreted to be at a pace corresponding to the maximum workload rate for individuals examining cytology slides. (The district court order provided that the February 28, 1992 final cytology proficiency testing regulations would remain in effect pending the issuance of a revised final rule.) *Consumer Federation of America and Public Citizen* v. *Department of Health and Human Services*, 906 F.Supp. 657, 668–669 (D.D.C. 1995).

In compliance with the district court's order, on November 30, 1995, the Department published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (60 FR 61509). The NPRM proposed to modify the timeframe for completing a cytology proficiency test to equal the maximum workload rate of 12.5 slides per hour. However, in the belief that the timeframe in the original rule met the statutory requirement, the Department appealed the district court's ruling, seeking reinstatement of the February 28, 1992 cytology PT regulations.

In its May 21, 1996 decision, the United States Court of Appeals for the District of Columbia Circuit reversed the district court's ruling and remanded the regulation to the agency to proffer an adequate explanation for the original cytology PT rule or to complete the rulemaking. *Consumer Federation of America and Public Citizen* v. *Department of Health and Human Services*, 83 F.3d 1497, 1506–07 (D.C. Cir. 1996).

Under the analysis of *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984), the court of appeals noted that ''[i]n reviewing an agency's construction of a statute, we first ask whether Congress has spoken unambiguously to the precise issue at hand. If it has, we give effect to Congress' intent. If not, we consider the agency's action under 'Step Two' of *Chevron*, and defer to the agency's interpretation if it represents a 'permissible construction' of the statute.'' 83 F.3d at 1503.

The court of appeals found that the challenge to the Secretary's interpretation could not be resolved under the first prong of the *Chevron* analysis. By inserting the words ''to the extent practicable,'' to precede the language the proficiency testing is to take place ''under normal working conditions'' (42 U.S.C. 263a(f)(4)(B)(iv)), the agency's interpretation did not require a precise replication of the workplace environment. In addition, Congress did not define with any precision when the Secretary could ''deviate from workplace conditions in the interests of practicality.'' 83 F.3d at 1505. Because Congress did not address these issues, the court turned to the second prong of *Chevron* and inquired whether the agency's interpretation was reasonable.

However, the court further stated that it was ''at a loss to understand how HHS's proficiency testing regulations reflect a reasonable interpretation of the relevant CLIA provision'' (83 F.3d at 1506), by noting that the Department's explanation of the cytology PT rate in the preamble to the final rule published on February 28, 1992 (57 FR at 7041) ''is simply too terse to support the agency's decision to use a [proficiency] testing rate which is less than half the maximum work rate, in the face of statutory language directing it to test under normal working conditions to the extent practicable.'' 83 F.3d at 1506.

While indicating some interest in the Department's further explanation proffered during the course of the litigation (which corresponds with the statement in the next section of this memorandum), the court held that this explanation constituted a ''post hoc'' rationalization, since this rationale was not proffered as part of the administrative record during the rulemaking process that resulted in the February 28, 1992 final rule. As such, the court noted that it was prohibited from considering it in its review of the legal basis for the final rule.

In its ruling, the court remanded to the Department to either provide an adequate explanation on the record of why the proficiency testing protocol represents a permissible interpretation of the pertinent CLIA provision or to continue the rulemaking process commenced with the issuance of the NPRM on November 30, 1995.

After further consideration of this issue, CDC believes that the final rule of February 28, 1992 appropriately fulfills the statutory requirement that cytology proficiency testing be conducted ''to the extent practicable, under normal working conditions.'' We understand that a notice withdrawing the proposed rulemaking of November 30, 1995 will be published in the **Federal Register**. Furthermore, through this memorandum CDC ''provide[s] an adequate explanation on the record of why the proficiency testing protocol represents a permissible interpretation'' of the CLIA statute, as required by the court.

B. Supplemental Statement of Rationale for Timeframe in Cytology Proficiency Testing Final Rule Published February 28, 1992

As required by CLIA, the final rule established a maximum workload limit for personnel examining cytology slides. Under the regulations, cytologists may examine no more than 100 slides in any 24 hour period, and must have at least 8 hours to complete the examination of 100 slides. 42 CFR 493.1257(b)(1), (b)(3)(i). This limit was established in order to assure that individuals who perform cytology testing have sufficient time to adequately examine each slide.

CLIA also requires the Department to develop a program for testing the proficiency of individuals who perform cytology slide examinations. The statute states that proficiency testing is ''to take place, to the extent practicable, under normal working conditions.'' 42 U.S.C. 263a(f)(4)(B)(iv). The February 28, 1992 final rule implementing the testing program (42 CFR 493.855(b)) provides that cytology personnel will be required to complete a 10-slide proficiency test in two hours and, if necessary, a 20-slide test in four hours.

The regulation proposed in the original NPRM of May 21, 1990 (55 FR 20896, 20928) did not include time limits for cytology proficiency testing. In developing the final rule, we reviewed the PT program that had been in operation in Maryland since 1990. This program had been submitted by the Maryland Department of Health and Mental Hygiene as a model for revising the cytology PT program proposed in the NPRM. As noted in the preamble to the final rule published on February 28, 1992 (57 FR at 7041), we adopted the same time limits used in the Maryland program. ''These time limits,'' we explained, ''were established to provide for equitable testing on a national scale and to allow individuals sufficient time to complete the test at their normal pace without unduly restricting or extending the time for the examination.'' We concluded that the time limits in the Maryland program, which require cytologists to review 5 slides per hour, satisfied CLIA's requirement that PT take place, ''to the extent practicable, under normal working conditions.''

We reached this conclusion even though a cytologist who reviews the maximum number of slides allowed per day will screen, on average, approximately 12.5 slides per hour.

1. First, and most importantly, we acknowledge, consistent with CLIA, that it is not ''practicable'' to precisely duplicate a typical working day when designing a supervised, time-limited proficiency testing program. Approximately 95% of the usual mix of cytology slides from patients are normal. Creating a proficiency test with this ratio of normal to abnormal slides, however, would not accurately assess the skills of the cytologist because it would not test the cytologist's knowledge of the full range of possible abnormalities. Consequently, under 42 CFR 493.945, the 10-slide set for a PT exam must have at least 30%, and may have up to 60% abnormal slides. In setting the 5-slide-per-hour rate, we took into account that the evaluation of abnormalities generally requires more time, whether it occurs during a normal working day or during proficiency testing. Indeed, some slides in the test may require extensive evaluation and considerable time. Therefore, an absolute comparison of normal workday rates with proficiency testing rates is inappropriate. Since the proportion of complex, abnormal slides will be much greater during proficiency testing than during a normal workday, it is not practicable to demand that cytologists examine proficiency testing slides at the maximum rate that they are permitted to work during a normal day. A slower-than-average work rate during proficiency testing is appropriate because examining abnormal slides generally takes more time than examining normal slides.

2. Second, we did not assume that ''under normal working conditions'' cytologists will

examine 100 slides each day. When setting this limit, we explicitly stated that it ''represents an absolute maximum number of slides and is not to be employed as a performance target for each individual.'' 42 CFR 493.1257(b)(1). Similarly, when designing the proficiency testing program, we recognized that due to varying skill levels, and other factors, some cytologists will work at a much slower pace than others. Since the proficiency program is designed to allow all individuals to work at their normal speed, the rate for proficiency testing was set below the maximum rate at which cytologists may work under the regulations.

3. Third, we also decided that the slide-per-hour rate should be lower during proficiency testing than during normal workdays because the staining characteristics of the proficiency test slides may be different from those prepared in the test subject's laboratory, forms for recording results will be unfamiliar, and the test will create some anxiety for the cytologist. To account for these factors, we determined that extra time should be allowed.

In light of the experience of the Maryland program, and the factors mentioned above, we determined that the 2 and 4 hour time limits for proficiency testing are appropriate because they take into account the differences between examination of slides during normal workdays and during a proficiency test.

Given the proficiency testing situation described above, CDC reaffirms that the timeframe established in the February 28, 1992 final rule for completion of cytology proficiency tests is, ''to the extent practicable,'' comparable to normal working conditions, and fulfills the Congressional intent to test adequately the abilities of cytologists to determine test results accurately.

Carlyn L. Collins.

[FR Doc. 00–6580 Filed 3–16–00; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE56

Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule To List the Pecos Pupfish (*Cyprinodon pecosensis*) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: We, the Fish and Wildlife Service (Service), withdraw the proposal to list the Pecos pupfish (*Cyprinodon pecosensis*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). The Pecos pupfish is native to the Pecos River and its tributaries, and nearby lakes, sinkholes, and saline springs in New Mexico and Texas. The species now occurs in some reaches of the Pecos River in New Mexico, on lands administered by us, the New Mexico Division of State Parks (NMDSP), and the Bureau of Land Management (BLM); and on private lands in Texas. This withdrawal is based on actions taken by us and other Federal and State resource and management agencies to remove immediate threats to the species and also on commitments by us and those agencies to actively protect and enhance existing populations and habitats and to repatriate the species to appropriate habitats within its native range. In cooperation with the New Mexico Department of Game and Fish (NMDGF), New Mexico Department of Agriculture, NMDSP, Texas Parks and Wildlife Department (TPWD), and BLM, we have executed a Conservation Agreement that addresses the threats to the survival of the species. These protections will sufficiently assure the viability of the Pecos pupfish within its historical range.

ADDRESSES: The complete file for this notice is available for public inspection, by appointment, during normal business hours at our New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, New Mexico 87113.

FOR FURTHER INFORMATION CONTACT: Joy Nicholopoulos, Field Supervisor, New Mexico Ecological Services Field Office, at the above address (505–346–2525).

SUPPLEMENTARY INFORMATION:

Background

The Pecos pupfish, described by Echelle and Echelle (1978), is a member of the family Cyprinodontidae. The taxonomic status of the Pecos pupfish had been uncertain for more than 30 years because of a previous description of a pupfish (*Cyprinodon bovinus*) from the Pecos River (Baird and Girard 1853). Type specimens from the Pecos River in the original series were lost or in poor condition but were assumed to be the same as the Pecos pupfish until an extant population of *C. bovinus* was found at Leon Springs, Texas, and confirmed as different from the form in the Pecos River proper (Echelle and Miller 1974).

The Pecos pupfish is a small, deep-bodied (2.8 to 4.6 centimeters (cm) (1.1 to 1.8 inches (in) average length) gray-to-brown fish. Male dorsal (back) and anal fins are black almost to the margin with no yellow on the dorsal, anal, or caudal (tail) fins. The lateral (side) bars on the female are typically broken into blotches ventrolaterally (along the sides near the bottom). The abdomen is generally without scales, except for a few scales in front of the pelvic fins and a patch just behind the gill membrane isthmus (a narrow strip of tissue). There are 20 to 21 gill rakers and usually 3 or 4 preorbital (behind the eye socket) pores on each side of the head (Echelle and Echelle 1978).

The Pecos pupfish is native to the Pecos River and its tributaries, and nearby lakes, sinkholes, and saline springs in New Mexico and Texas. The historical range of the species included the Pecos River from Bitter Lake National Wildlife Refuge and Bottomless Lakes State Park near Roswell, Chaves County, New Mexico, downstream approximately 650 kilometers (km) (404 miles (mi)) to the mouth of Independence Creek, southeast of Sheffield, Pecos County, Texas (Wilde and Echelle 1992). The species was also found in gypsum sinkholes and saline springs at Bitter Lake National Wildlife Refuge; sinkholes and springs at Bottomless Lakes State Park (Brooks and Woods 1988); and in Salt Creek, Reeves County, Texas.

In Texas, genetically pure populations of the Pecos pupfish are now thought to occur only in the upper reaches of Salt Creek, Culberson and Reeves Counties, Texas (G. Garrett, TPWD, pers. comm. 1998). In New Mexico, the species still occurs in the Pecos River from north of Malaga upstream to Bitter Lake National Wildlife Refuge. The species is also found at Bottomless Lakes State Park and the BLM's Overflow Wetlands Wildlife Habitat Area/Area of Critical Environmental Concern. This range reduction represents a loss of more than two-thirds of the species' former range (Echelle and Connor 1989; Echelle *et al.* 1997; Hoagstrom and Brooks 1998).

Since the Pecos pupfish was proposed for listing on January 30, 1998 (63 FR 4608), the most significant threats to its continued existence have been ameliorated. The main threats to the Pecos pupfish were habitat loss caused by damming and dewatering of the Pecos River, excessive pumping of groundwater, and, since the early 1980s, hybridization with the sheepshead minnow (*Cyprinodon variegatus*). Genetically pure populations have been made more secure—a fish barrier constructed at the Bitter Lake National Wildlife Refuge has protected the population that exists there; a fish barrier constructed at Dexter National Fish Hatchery and Technical Center has created a managed wetland for establishing a refugial population; and the BLM has placed the population on the BLM's Overflow Wetlands Area of