enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 60

Administrative practice and procedure, Air pollution control, Aluminum, Ammonium sulfate plants, Batteries, Beverages, Carbon monoxide, Cement industry, Chemicals, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Graphic arts industry, Heaters, Household appliances, Insulation, Intergovernmental relations, Iron, Labeling, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Polymers, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Sulfuric acid plants, Tires, Urethane, Vinyl, Volatile organic compounds, Waste treatment and disposal, Zinc.

Dated: January 29, 2004.

Ronald Kreizenbeck,

Acting Regional Administrator, Region 10.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Section 60.4 is amended by revising paragraph (b)(MM) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(MM) State of Oregon. (i) Oregon Department of Environmental Quality (ODEQ), 811 SW Sixth Avenue, Portland, OR 97204–1390, *http://www.deq.state.or.us.*

(ii) Lane Regional Air Pollution Authority (LRAPA), 1010 Main Street, Springfield, Oregon 97477, *http://www.lrapa.org.*

* * * * *

[FR Doc. 04–3225 Filed 2–12–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7622–8]

RIN 2040–AD90

National Primary and Secondary Drinking Water Regulations: Approval of Additional Method for the Detection of Coliforms and E. Coli in Drinking Water

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In today's final rule, the Environmental Protection Agency (EPA) approves the Colitag™ method to support previously established requirements for National Primary Drinking Water Regulation (NPDWR) compliance monitoring for total coliforms and *E. coli* in finished drinking water. This method was proposed on March 7, 2002, and a Notice of Data Availability was published on December 2, 2002, which provided additional information on the Colitag™ method. This action provides water utilities and certified laboratories an additional analytical method option to test for total coliforms and *E. coli.*

DATES: This regulation is effective March 15, 2004. The incorporation by reference of the method listed in the rule is approved by the Director of the Federal Register as of March 15, 2004. For purposes of judicial review, this final rule is promulgated as of 1 p.m. eastern time February 27, 2004, as provided in 40 CFR 23.7.

ADDRESSES: The official public docket for this rule is located at EPA West Building, Room B102, 1301 Constitution Avenue, NW., Washington, DC, 20004.

FOR FURTHER INFORMATION CONTACT: For information regarding the actions included in this final rule contact Gregory J. Carroll, EPA, 26 West Martin Luther King Dr. (MLK 140), Cincinnati, Ohio, 45268, (513) 569–7948, or e-mail at *carroll.gregory@epa.gov.* General information may also be obtained from the EPA Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426–4791. The Hotline is open Monday through Friday, excluding legal holidays, from 9 a.m. to 4:30 p.m., Eastern Time.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Potentially Regulated Entities

Use of the Colitag™ method approved in this action is voluntary. If, however, it is used to support compliance monitoring, then compliance with the procedures specified in the method is required.

Category	Examples of potentially regulated entities	NAICS
State, Local, & Tribal Governments	States, local and Tribal governments that analyze water samples on behalf of public water systems required to conduct such analysis; States, local and Tribal governments that themselves operate community and non-transient non-community water systems required to monitor.	924110
Industry	Private operators of community and non-transient non-community water systems required to monitor.	221310
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	924110

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 141.21 of title 40 the Code of Federal Regulations (CFR). 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.

B. How Can I Get Copies of Related Information?

1. EPA has established an official public docket for this action under Docket ID No. OW–2002–0031. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. 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 Public Reading Room 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. If you would like to schedule an appointment for access to docket materials, please call (202) 566–2426.

2. 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 view public comments, 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. Although not all docket materials may be available electronically, you may still access any of the publically available docket materials through the docket facility identified in section I.B.1. Once in the system, select ''search,'' then key in the appropriate docket identification number.

II. Statutory Authority and Background

The Safe Drinking Water Act (SDWA), as amended in 1996, requires EPA to promulgate national primary drinking water regulations (NPDWRs) which specify maximum contaminant levels (MCLs) or treatment techniques for drinking water contaminants (SDWA section 1412 (42 U.S.C. 300g–1)). NPDWRs apply to public water systems pursuant to SDWA section 1401 (42 U.S.C. 300f(1)(A)). According to SDWA section 1401(1)(D), NPDWRs include ''criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including accepted methods for quality control and testing procedures.'' In addition, SDWA section 1445(a) authorizes the Administrator to establish regulations for monitoring to assist in determining whether persons are acting in compliance with the requirements of the SDWA. EPA's promulgation of analytical methods is authorized under these sections of the SDWA, as well as the general rulemaking authority in SDWA section 1450(a), (42 U.S.C. 300j–9(a)).

III. Explanation of Today's Action

In this final rule, EPA is approving the Colitag™ method for compliance monitoring of total coliforms and *E. coli* in drinking water. The action taken in this final rule was first proposed in the **Federal Register** published on March 7, 2002 (67 FR 10532). In October 2002, EPA decided to evaluate additional clarifying information from the developer of the Colitag™ method, CPI International, and indicated such in the **Federal Register** notice on October 29, 2002 (67 FR 65888, 65891). EPA did not take final action on this method at that time and stated that all comments relating to the Colitag™ method would be responded to in a future action.

EPA published a **Federal Register** Notice of Data Availability (NODA) on December 2, 2002 (67 FR 71520) to provide additional information concerning the results of studies that evaluated the comparability between Colitag™ and the approved reference methods. The additional information in the NODA described the performance of the method, including additional analysis by EPA of the data in the original record associated with the March 2002 proposal, and included data from two additional studies.

Based on the evaluation of the comparability data generated for the Colitag™ method, and taking into consideration the public comments received, EPA has concluded that the Colitag™ method is acceptable as an alternative to the approved reference methods because the information available to EPA indicates that the performance of the Colitag method compares favorably to the approved reference methods. The Colitag™ method was compared to Standard Method 9222B for total coliforms and to Standard Method 9222D for *E. Coli* (reference 1 in the table at § 141.21). EPA assessed the quality and quantity of the data provided by CPI International (*i.e.*, data provided to support EPA's original evaluation of the Colitag™ method and the additional clarifying information cited in the December 2, 2002, NODA) and conducted a thorough statistical analysis of relevant data, all of which was included in the public record.

As part of this assessment, EPA performed an extensive review of the information from each of the ten sets of method comparability studies, including the data sheets available from the independent laboratory that performed the total coliforms and *E. coli* analyses for the studies. EPA also addressed the following key issues as part of this process: adherence to the protocol used in the Agency's Alternate Test Procedure (ATP) program; adequacy of the stress applied to the target microorganisms prior to testing using the Colitag™ method; and the time that elapsed between chlorine stressing and comparability test completion. As discussed later in ''Summary of Comments,'' each was addressed to EPA's satisfaction.

The full title of the Colitag™ method approved in this action and how to obtain a copy of the method are being added to the table at § 141.21(f)(3), at footnote 15. The full title was included in the discussion of the method detailed in the proposal to this regulation, published in the **Federal Register** on March 7, 2002 (67 FR 10532).

IV. Summary of Comments

EPA received five sets of comments related to the Colitag™ method in response to the March 2002 proposal and received eight sets of comments in response to the December 2002 NODA. Four of the eight sets of NODA comments were from those who had also commented on the proposal; thus, in total, EPA received comments from nine commenters. Based on EPA's review of the comments, the Agency believes that today's action is warranted. Detailed responses to comments are contained in ''Public Comment and Responses for the National Primary and Secondary Drinking Water Regulations: Approval of Colitag™ for Compliance Monitoring of total coliforms and *E. coli* in Finished Drinking Water'' which is available in Docket ID No. OW–2002–0031. See section I.B.1 (How Can I Get Copies Of Related Information?) for information on contacting the official public docket.

All comments are addressed in the aforementioned document. Three specific comment subjects are discussed as follows: (1) Adherence to the protocol used in the Agency's Alternate Test Procedures (ATP) program; (2) the adequacy of the stress applied to the target microorganisms prior to testing

the Colitag™ method; and (3) the time elapsed between chlorine stressing and the comparability study (*i.e.*, ''hold time'').

The ATP protocol that guided the Colitag™ method comparability testing is titled ''Protocol for Alternate Test Procedures for Coliform Bacteria in Compliance With Drinking Water Regulations,'' published in 1995. The protocol is not a rule and is not mandatory in nature. Rather, EPA established the guidelines in the protocol to encourage the collection of adequate information for the Agency's evaluation of a new method (*i.e.*, to allow the Agency to determine the comparability between the new method and the reference method). Keeping that objective in mind, EPA notes that it has exercised a degree of flexibility in the application of the guidance. While EPA believes that those who follow the protocol guidelines increase the likelihood that the Agency will have sufficient information on which to base an approval decision, EPA notes that following the guidelines precisely does not guarantee method approval. Similarly, deviation from the guidelines does not preclude EPA from considering a method for approval. EPA considers all information submitted and, when there is a question or concern (*e.g.*, when there is a suggestion that some information was not collected precisely in accordance with the guidance), EPA generally considers the underlying issue that the protocol was designed to address. Where the Agency has concluded that adequate information is available to judge a particular issue, it has proceeded with the evaluation of the method; this approach has been reflected in EPA's past evaluation of numerous methods, including currently approved methods for the measurement of total coliforms and *E. coli.*

With respect to the comparability study tests to determine if Colitag™ could adequately recover damaged total coliforms and *E. coli,* EPA experts evaluated the chlorine stress that was applied to the test bacteria and concluded that such bacteria had been adequately stressed. Consistent with the approach described above, EPA's microbiologists considered the underlying issue (*i.e.*, ''Can the Colitag™ method adequately recover and detect chlorine-stressed bacteria?''). Acknowledging that the protocol, on which the tests were based recommended 3–4 logs of stress, EPA concluded that a lesser degree of chlorine stress applied in a number of the Colitag™ samples still provided an adequate challenge to the method performance. Moreover, EPA's microbiologists, upon more closely examining the mechanisms by which bacteria become stressed and are subsequently recovered, concluded that a wider range (2–4 log reduction) for the chlorine-stress goal is reasonable for judging method comparability. As a result, the Colitag™ test data support EPA's conclusion that the method is comparable to the reference methods in its ability to recover chlorine-stressed bacteria. Again, EPA notes that it has previously approved coliform methods that were tested with less than 3–4 logs of chlorine stressing; the Colitag™ evaluation is not unique in this respect.

With respect to comments concerning ''hold time,'' EPA notes that it has not established guidelines for such in its ATP protocol. The Agency has not asked that hold time be documented, nor has it applied a standard for such in previous method evaluations. EPA's presumption with respect to this issue is that the certified drinking water laboratories performing the comparability studies will employ a reasonable hold time. To address this issue, however, EPA conducted a thorough review of the hold times for the ten samples collected in evaluating the Colitag™ method. In doing so, EPA considered dates identified for sample collection; sample receipt at the laboratory; original density determination; and comparability study completion, as reflected in the worksheets, comparability study data sheets, and chain of custody documentation in the record. EPA further considered the chronology and duration of the steps associated with the various tests performed. Based on all of this information, EPA concluded that a reasonable hold time could be documented for the majority of the tests, but that clear hold times could not be conclusively determined for four of the tests (samples 990025A, 990052A, 990217A, and 990273A). EPA notes, however, that it was unable to determine that unreasonable hold times were employed for these four tests. Therefore, EPA has evaluated the results of all ten samples for the comparison analysis.

As a conservative measure, however, EPA repeated its statistical analysis of the Colitag™ data set, excluding the results of the four aforementioned tests. The conclusion (*i.e.*, that the comparability study did not identify a statistically significant difference in performance between the reference method and Colitag™'') did not change, nor was the strength of the conclusion substantially different using the more limited (6-test) data set. Hence, even if the four tests were excluded, EPA's decision to approve Colitag™ would not change.

V. 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 a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

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

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

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

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

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule merely provides drinking water utilities an additional analytical method to use to meet existing monitoring 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) 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.

The RFA provides default definitions for each type of small entity. It also authorizes an agency to use alternative definitions for each category of small entity, ''which are appropriate to the activities of the agency'' after proposing the alternative definition(s) in the **Federal Register** and taking comment. 5 U.S.C. 601(3)–(5). In addition to the above, to establish an alternative small business definition, agencies must consult with the Small Business Administration's (SBA) Chief Counsel for Advocacy.

For purposes of assessing the impacts of today's rule on small entities, EPA considered small entities to be public water systems serving 10,000 persons or fewer. This is the cut-off level specified by Congress in the 1996 Amendments to the SDWA for small system flexibility provisions. In accordance with the RFA requirements, EPA proposed using this alternative definition in the **Federal Register**, (63 FR 7620, February 13, 1998) requested comment, consulted with SBA, and expressed its intention to use the alternative definition for all future drinking water regulations in the Consumer Confidence Reports regulation (63 FR 44511, August 19, 1998). As stated in that final rule, the alternative definition would be applied to this regulation as well.

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. The use of the Colitag™ method is optional. Additionally, the cost of using the Colitag™ is similar to the cost of using other previously approved methods for the measurement of total coliforms and *E. coli.* Thus, we have determined that this rule will not impact 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 UMRA 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 rule contains no Federal mandates (under the regulatory provision of Title II of the UMRA) for State, local, or Tribal governments or the private sector. The rule imposes no enforceable duty on any State, local, or Tribal governments or the private sector. It merely provides drinking water utilities an additional analytical method to use to meet existing monitoring requirements. Thus, today's rule is not subject to the requirement 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 adoption and use of the Colitag™ method is voluntary because drinking water systems can continue to use the existing approved methods. Thus, today's 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. This final rule approves Colitag™ as an additional analytical method option, thereby allowing public water systems an additional choice to conduct analyses previously required. There is no added cost to State and local governments, and the rule does not preempt State law. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on the proposed rule from State and local officials. No comments were received that concerned issues covered by Executive Order 13132.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA 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. This final rule is to specify Colitag™ as an approved analytical method option, thereby allowing public water systems the choice to use it to conduct analyses previously required. Thus, Executive Order 13175 does not apply to this rule. Moreover, in the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Tribal governments, EPA specifically solicited comment on the proposed rule from Tribal officials. No comments concerning Tribal issues were received.

G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks 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 Executive Order 13045 because it is not economically significant as defined under Executive Order 12866. Further, 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 merely provides an additional analytical method to use for monitoring. It does not require any public water systems to use this method.

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 Effect 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 to Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves a technical standard. Therefore, the NTTAA requires that the Agency identify and consider potentially applicable voluntary consensus standards. In response to those requirements, EPA notes that it has recently approved updated versions of previously approved voluntary consensus methods for total coliforms and *E. coli* and published them in the **Federal Register** on October 23, 2002 (67 FR 65220). EPA has decided to approve the Colitag™ method in this regulation as an additional analytical method, submitted to EPA by industry, for use in drinking water compliance monitoring. This industry-developed method will supplement existing approved methods.

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 on March 15, 2004.

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Incorporation by reference, Indians-lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: February 9, 2004.

Michael O. Leavitt,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

■ 1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

■ 2. Section 141.21 is amended by revising the table including the footnotes in paragraph (f)(3) and by adding paragraph (f)(6)(x) to read as follows.

§ 141.21 Coliform sampling.

* * * * *

(f) * * *

(3) * * *

Organism	Methodology[12]	Citation[1]
Total Coliforms[2]	Total Coliform Fermentation Technique[3, 4, 5]	9221A, B.
	Total Coliform Membrane Filter Technique[6]	9222A, B, C.
	Presence-Absence (P–A) Coliform Test[5, 7]	9221D.
	ONPG–MUG Test[8]	9223.
	Colisure Test[9].	
	E*Colite® Test[10].	
	m-ColiBlue24® Test[11].	
	Readycult® Coliforms 100 Presence/Absence Test[13].	

Organism	Methodology[12]	Citation[1]
	Membrane Filter Technique using Chromocult® Coliform Agar[14]. Colitag® Test[15].	

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents listed in footnotes 1, 6, 8, 9, 10 , 11, 13, 14 and 15 was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the documents may be obtained from the sources listed below. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Documents may be inspected at EPA's Drinking Water Docket, EPA West, 1301 Constitution Avenue, NW., EPA West, Room B102, Washington DC 20460 (Telephone: 202–566–2426); or at the Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC 20408.

[1] *Standard Methods for the Examination of Water and Wastewater,* 18th edition (1992), 19th edition (1995), or 20th edition (1998). American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005. The cited methods published in any of these three editions may be used.

[2] The time from sample collection to initiation of analysis may not exceed 30 hours. Systems are encouraged but not required to hold samples below 10 deg. C during transit.

[3] Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the system conducts at least 25 parallel tests between this medium and lauryl tryptose broth using the water normally tested, and this comparison demonstrates that the false-positive rate and false-negative rate for total coliform, using lactose broth, is less than 10 percent.

[4] If inverted tubes are used to detect gas production, the media should cover these tubes at least one-half to two-thirds after the sample is added.

[5] No requirement exists to run the completed phase on 10 percent of all total coliform-positive confirmed tubes.

[6] MI agar also may be used. Preparation and use of MI agar is set forth in the article, ''New medium for the simultaneous detection of total coliform and *Escherichia coli* in water'' by Brenner, K.P., *et. al.,* 1993, Appl. Environ. Microbiol. 59:3534–3544. Also available from the Office of Water Resource Center (RC–4100T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, EPA/600/J–99/225. Verification of colonies is not required.

[7] Six-times formulation strength may be used if the medium is filter-sterilized rather than autoclaved.

[8] The ONPG–MUG Test is also known as the Autoanalysis Collect System.

[9] A description of the Colisure Test, Feb 28, 1994, may be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092. The Colisure Test may be read after an incubation time of 24 hours.

[10] A description of the E*Colite® Test, ''Presence/Absence for Coliforms and *E. Coli* in Water,'' Dec 21, 1997, is available from Charm Sciences, Inc., 36 Franklin Street, Malden, MA 02148–4120.

[11] A description of the m-ColiBlue24® Test, Aug 17, 1999, is available from the Hach Company, 100 Dayton Avenue, Ames, IA 50010.

[12] EPA strongly recommends that laboratories evaluate the false-positive and negative rates for the method(s) they use for monitoring total coliforms. EPA also encourages laboratories to establish false-positive and false-negative rates within their own laboratory and sample matrix (drinking water or source water) with the intent that if the method they choose has an unacceptable false-positive or negative rate, another method can be used. The Agency suggests that laboratories perform these studies on a minimum of 5% of all total coliform-positive samples, except for those methods where verification/confirmation is already required, *e.g.*, the M-Endo and LES Endo Membrane Filter Tests, Standard Total Coliform Fermentation Technique, and Presence-Absence Coliform Test. Methods for establishing false-positive and negative-rates may be based on lactose fermentation, the rapid test for β-galactosidase and cytochrome oxidase, multi-test identification systems, or equivalent confirmation tests. False-positive and false-negative information is often available in published studies and/or from the manufacturer(s).

[13] The Readycult® Coliforms 100 Presence/Absence Test is described in the document, ''Readycult® Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and *Escherichla coli* in Finished Waters'', November 2000, Version 1.0, available from EM Science (an affiliate of Merck KGgA, Darmstadt Germany), 480 S. Democrat Road, Gibbstown, NJ 08027–1297. Telephone number is (800) 222–0342, e-mail address is: *adellenbusch@emscience.com.*

[14] Membrane Filter Technique using Chromocult® Coliform Agar is described in the document, ''Chromocult® Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and *Escherichla coli* in Finished Waters'', November 2000, Version 1.0, available from EM Science (an affiliate of Merck KGgA, Darmstadt Germany), 480 S. Democrat Road, Gibbstown, NJ 08027–1297. Telephone number is (800) 222–0342, e-mail address is: *adellenbusch@emscience.com.*

[15] Colitag® product for the determination of the presence/absence of total coliforms and *E. coli* is described in ''Colitag® Product as a Test for Detection and Identification of Coliforms and *E. coli* Bacteria in Drinking Water and Source Water as Required in National Primary Drinking Water Regulations,'' August 2001, available from CPI International, Inc., 5580 Skylane Blvd., Santa Rosa, CA, 95403, telephone (800) 878–7654, Fax (707) 545–7901, Internet address *http://www.cpiinternational.com.*

* * * * *

(6) * * *

(x) Colitag®, a description of which is cited in footnote 15 to the table at paragraph (f)(3) of this section.

* * * * *

[FR Doc. 04–3226 Filed 2–12–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2003–0363; FRL–7338–6]

Thifensulfuron methyl; Tolerances Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to reinstate corn tolerances for the herbicide thifensulfuron methyl. These corn tolerances were previously established but inadvertently removed shortly thereafter. Registrations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use of thifensulfuron methyl on corn currently exist and have existed for more than 9 years.

DATES: This direct final rule is effective on May 13, 2004, without further notice, unless EPA receives a relevant adverse comment by April 13, 2004. If, however, EPA receives a relevant adverse comment during the comment period, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the direct final rule will not take effect.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001; telephone number: (703) 308–8037; e-mail address: *nevola.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)