TABLE II.—REQUIRED CONTAINERS, PRESERVATION TECHNIQUES, AND HOLDING TIMES—Continued

Parameter No./name	Container [1]	Preservation [2,3]	Maximum holding time [4]
* *	*	*	* *

[1] Polyethylene (P) or glass (G). For microbiology, plastic sample containers must be made of sterilizable materials (polypropylene or other autoclavable plastic), except for samples collected for trace-level mercury (see footnote 17).

[2] Sample preservation should be performed immediately upon sample collection. For composite chemical samples each aliquot should be preserved at the time of collection. When use of an automated sampler makes it impossible to preserve each aliquot, then chemical samples may be preserved by maintaining at 4°C until compositing and sample splitting is completed, except for samples collected for trace-level mercury (see footnote 17).

[3] When any sample is to be shipped by common carrier or sent through the United States Mails, it must comply with the Department of Transportation Hazardous Materials Regulations (49 CFR part 172). The person offering such material for transportation is responsible for ensuring such compliance. For the preservation requirements of Table II, the Office of Hazardous Materials, Materials Transportation Bureau, Department of Transportation has determined that the Hazardous Materials Regulations do not apply to the following materials: Hydrochloric acid (HCl) in water solutions at concentrations of 0.04% by weight or less (pH about 1.96 or greater); Nitric acid (HNO_3) in water solutions at concentrations of 0.15% by weight or less (pH about 1.62 or greater); Sulfuric acid (H_2SO_4) in water solutions at concentrations of 0.35% by weight or less (pH about 1.15 or greater); and Sodium hydroxide (NaOH) in water solutions at concentrations of 0.080% by weight or less (pH about 12.30 or less).

[4] Samples should be analyzed as soon as possible after collection. The times listed are the maximum times that samples may be held before analysis and still be considered valid. (See footnote 17 for samples collected for trace level mercury). Samples may be held for longer periods only if the permittee, or monitoring laboratory, has data on file to show that for the specific types of samples under study, the analytes are stable for the longer time, and has received a variance from the Regional Administrator under § 136.3(e). Some samples may not be stable for the maximum time period given in the table. A permittee, or monitoring laboratory, is obligated to hold the sample for a shorter time if knowledge exists to show that this is necessary to maintain sample stability. See § 136.3(e) for details. The term ''analyze immediately'' usually means within 15 minutes or less of sample collection.

* * * * *

[7] Samples should be filtered immediately on site before adding preservative for dissolved metals, except for samples collected for trace-level mercury (see footnote 17).

* * * * *

[17] Samples collected for the determination of trace level mercury (100 ng/L) using EPA Method 1631 must be collected in tightly-capped fluoropolymer or glass bottles and preserved with BrCl or HCl solution within 48 hours of sample collection. The time to preservation may be extended to 28 days if a sample is oxidized in the sample bottle. Samples collected for dissolved trace level mercury should be filtered in the laboratory. However, if circumstances prevent overnight shipment, samples should be filtered in a designated clean area in the field in accordance with procedures given in Method 1669. Samples that have been collected for determination of total or dissolved trace level mercury must be analyzed within 90 days of sample collection.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7398–4]

RIN 2040–AD81

Unregulated Contaminant Monitoring Regulation: Approval of Analytical Method for *Aeromonas*; National Primary and Secondary Drinking Water Regulations: Approval of Analytical Methods for Chemical and Microbiological Contaminants

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Today's rule approves the analytical method and an associated Minimum Reporting Level (MRL) to support the Unregulated Contaminant Monitoring Regulation's (UCMR) List 2 *Aeromonas* monitoring. This List 2 monitoring will be conducted at 120 large and 180 small Public Water Systems (PWS) from January 1, 2003 through December 31, 2003.

Today's rule also approves EPA Method 515.4 to support previously required National Primary Drinking Water Regulation (NPDWR) compliance monitoring for 2,4-D (as acid, salts and esters), 2,4,5-TP (Silvex), dinoseb, pentachlorophenol, picloram and dalapon. In addition, EPA Method 531.2 is approved to support previously required NPDWR monitoring for carbofuran and oxamyl.

Minor changes have been made in the format of the table of methods required to be used for organic chemical NPDWR compliance monitoring to improve clarity and to conform to the format of other methods tables. In addition, the Presence-Absence (P–A) Coliform Test listed in the total coliform methods table was inadvertently identified as Method 9221. This has been corrected to 9221 D. Also, detection limits for ''Cyanide'' were added in the ''Detection Limits for Inorganic Contaminants'' table for the two cyanide methods, and minor editorial corrections were made.

EPA is approving seven of the eight additional industry-developed analytical methods that were proposed to support previously required NPDWR compliance monitoring. These seven methods include: A method for the determination of atrazine, two methods for the determination of cyanide, two methods for the determination of total coliforms and *E. coli,* a method for the determination of heterotrophic bacteria, and a method for the determination of turbidity. With respect to the eighth industry-developed method proposed on March 7, 2002, EPA is deferring a decision on its approval until additional clarifying information from the vendor is evaluated.

Finally, EPA is updating the information concerning the inspection of materials in the Water Docket to reflect its new address.

DATES: This regulation is effective November 29, 2002. The incorporation by reference of the methods listed in the rule is approved by the Director of the Federal Register as of November 29, 2002. For purposes of judicial review, this final rule is promulgated as of 1 p.m. Eastern Time on November 12, 2002, 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.

FOR FURTHER INFORMATION CONTACT: For information regarding the actions included in this final rule contact David J. Munch, EPA, 26 West Martin Luther King Dr. (MLK 140), Cincinnati, Ohio 45268, (513) 569–7843 or e-mail at *munch.dave@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 Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

A. Potentially Regulated Entities

The only regulated entities affected by today's rule are the 300 public water systems selected for *Aeromonas* monitoring. Use of the remaining methods approved in this action is voluntary. If, however, one of these methods is selected to support compliance monitoring, then compliance with the procedures specified in the method is required. A nationally representative sample of 120 large community and non-transient non-community water systems serving more than 10,000 persons is required to monitor for *Aeromonas* under the current UCMR. In addition, a nationally representative sample of 180 small community and non-transient non-community systems serving 10,000 or fewer persons is also required to monitor for *Aeromonas.* States, Territories, and Tribes with primacy to administer the regulatory program for public water systems under the Safe Drinking Water Act, sometimes conduct analyses to measure for contaminants in water samples and are thus affected by this action. Categories and entities potentially regulated by this action include the following:

Category	Examples of potentially regulated entities	NAICS[a]
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

[a] 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 of that 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 potentially regulated by this action concerning the monitoring for *Aeromonas,* you should carefully examine the applicability criteria in §§ 141.35 and 141.40 of the Code of Federal Regulations (CFR). A listing of both the large and small systems selected to perform *Aeromonas* monitoring is available at *http://www.epa.gov/safewater/standard/ucmr/systems.html.* To determine whether your facility is potentially regulated by this action concerning the use of EPA Methods 515.4 or 531.2 or the additional industry-developed methods being approved, you should carefully examine the applicability criteria in §§ 141.21, 141.23, 141.24 and 141.74 of the 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. Availability of Related Information

1. EPA has established an official public docket for this action under Docket ID No. W–01–13. 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, EPA, 1301 Constitution Avenue, NW., EPA West, Room B–102, Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. Eastern Time, Monday through Friday, excluding legal holidays. The Docket telephone number is (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, or access those documents in the public docket that are available electronically. Once in the system, select ''Quick Search,'' then key in the appropriate docket identification number. 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 section B.1.

C. Abbreviations and Acronyms Used in the Preamble and Final Rule

2,4-D—2,4-dichlorophenoxyacetic acid
2,4,5-TP—2,4,5 trichlorophenoxyacetic acid
ADA—ampicilin-dextrin
APHA—American Public Health Association
ASTM—American Society for Testing and Materials
CAS—Chemical Abstract Service
CFR—Code of Federal Regulations
CFU/mL—colony forming units per milliliter
EPA—United States Environmental Protection Agency
et. al.—and others
et. seq.—and the following
GLI method—Great Lakes Instruments method
HCL—hydrochloric acid
HRGC—high resolution gas chromatography
HRMS—high resolution mass spectrometer
ICR—information collection request
LD—point of lowest disinfectant residual
MCL—maximum contaminant level
MD—midpoint in the distribution system
MDL—method detection limit
MI—4-methylumbelliferyl-beta-D-galactopyranoside-indoxyl-beta-D-glucuronide
mg/L—milligram per liter
MR—point of maximum retention
MRL—minimum reporting level
NAICS—North American Industry Classification System
NERL—National Environmental Research Laboratory
NPDWR—National Primary Drinking Water Regulation
NTIS—National Technical Information Service
NTTAA—National Technology Transfer and Advancement Act
OMB—Office of Management and Budget
P–A—Presence-Absence
PCBs—polychlorinated biphenyls
pH—negative logarithm of the effective hydrogen-ion concentration
pKa—negative logarithm of the acidity constant

PT—proficiency testing
PWS—public water system
RFA—Regulatory Flexibility Act
SBA—Small Business Administration
SBREFA—Small Business Regulatory Enforcement Fairness Act
SDWA—Safe Drinking Water Act
UCMR—Unregulated Contaminant Monitoring Regulation
UMRA—Unfunded Mandates Reform Act of 1995
UV—ultraviolet

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I. Statutory Authority and Background

The Safe Drinking Water Act (SDWA) section 1445(a)(2), as amended in 1996, requires EPA to establish criteria for a program to monitor unregulated contaminants and to publish a list of contaminants to be monitored. To meet these requirements, EPA published the Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR) for Public Water Systems (in 64 FR 50555, September 17, 1999) which substantially revised the previous Unregulated Contaminant Monitoring Program, codified at 40 CFR 141.40. The September 1999 UCMR requires monitoring for three lists of contaminants. EPA subsequently published supplements to the September 1999 rule which included approved analytical methods for conducting analyses of List 1 and selected List 2 contaminants (65 FR 11372, March 2, 2000 and 66 FR 2273, January 11, 2001) and technical corrections and other supplemental information (66 FR 27215, May 16, 2001 and 66 FR 46221, September 4, 2001). The January 11, 2001 rule specified the requirements for *Aeromonas* monitoring in the UCMR; however, an analytical method for the analysis of *Aeromonas* was not approved as part of that final rule. Today's rule amends the UCMR to specify a method and an associated Minimum Reporting Level (MRL) for monitoring *Aeromonas* on List 2.

The 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). 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 acceptable 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)).

II. Explanation of Today's Action

Prior actions (66 FR 2273, January 11, 2001; and 66 FR 46221, September 4, 2001), specify the methods to be used for analysis of List 2 chemicals. In today's action, EPA is approving the use of EPA Method 1605 for the analysis of *Aeromonas* as specified in List 2 of Table 1 with an MRL of 0.2 Colony Forming Units (CFU)/100 mL.

Today's action also approves EPA Method 515.4 for the determination of 2,4-D (as acid, salts and esters), 2,4,5-TP (Silvex), dinoseb, pentachlorophenol, picloram and dalapon; EPA Method 531.2 for the determination of carbofuran and oxamyl; and an additional industry-developed method for the determination of atrazine in drinking water using an immunoassay-based technology and colorimetric determination, in accordance with § 141.24(e), to support monitoring required under § 141.24(h). Today's rule also approves six additional industry-developed methods: a method using a micro-scale hard distillation apparatus followed by colorimetric determination of total cyanide and a method using an ultra-violet digester system for the determination of total and available cyanide, to support monitoring required under § 141.23 (k)(1); a method for the determination of the presence or absence of total coliforms and *E. coli* in drinking waters using a liquid culture, and a membrane filter method for the determination of total coliforms and *E. coli* using a membrane filter enzyme-substrate procedure, for monitoring required under § 141.21; and a method for the determination of heterotrophic bacteria, and a laser based nephelometric method for the determination of turbidity, for monitoring required under § 141.74. With respect to the eighth industry-developed method proposed on March 7, 2002, EPA is deferring a decision on its approval until additional clarifying information from the vendor is evaluated.

In addition, the Presence-Absence (P–A) Coliform Test listed in the total coliform methods table was inadvertently identified as Method 9221. As proposed on March 7, 2002, this has been corrected to 9221 D. Also, detection limits for ''Cyanide'' were added in the ''Detection Limits for Inorganic Contaminants'' table for the two cyanide methods, and minor editorial corrections were made.

The actions taken in this final rule were proposed in the **Federal Register** published on March 7, 2002 (67 FR 10532, March 7, 2002). Twenty-six sets of comments were received concerning this proposal. Those comments which have resulted in EPA modifying what was proposed on March 7, 2002 are discussed in summary form below. More detailed responses to these comments, and to all other comments, are contained in ''Public Comment and Responses for the Unregulated Contaminant Monitoring Regulation: Approval of Analytical Method for *Aeromonas.* National Primary and Secondary Drinking Water Regulations: Approval of Analytical Methods for Chemical and Microbiological Contaminants' which is available in Docket ID No. W–01–13. See Section B. Availability of Related Information for information on contacting the official public docket.

In this final version of the rule, EPA has decided to provide the full titles of the methods approved in this action in footnotes 17 and 18 to the table at § 141.21(k)(1), the footnote in § 141.24(e)(1), and footnotes 11 and 12 to the table at § 141.74(a)(1). Each of these titles were included in the discussions of each method detailed in the proposal to this regulation, published in the **Federal Register** on

March 7, 2002 (67 FR 10532, March 7, 2002). These titles were also on the cover of each method, all of which were available in the Water Docket for this regulation.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing prior notice and an opportunity for public comment. EPA is publishing several rule changes related to today's final determination. First, the address for the Water Docket has been updated in § 141.24(e)(1) and in the text accompanying the tables at §§ 141.21(f)(3), 141.23(k)(1), 141.40(a)(3) and 141.74(a)(1) to conform to the Water Docket's new address. Second, the address for the Water Resource Center has been corrected in footnote 6 to the table in § 141.21(f)(3). Finally, the address for the National Technical Information Service was added in footnote 6 to the table at § 141.23(k)(1). EPA has determined that there is ''good cause'' for making these rule changes final without prior proposal and opportunity for comment because these rule changes have no substantive impact and merely correct or replace outdated CFR text. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes ''good cause'' under 5 U.S.C. 553(b)(B). For the same reasons, EPA is making these rule changes effective upon publication. 5 U.S.C. 553(d)(3).

III. Summary of Comments Resulting in Changes in the Proposed Action

EPA has received and is reviewing clarifying information concerning the evaluation of the Colitag® Test. Thus, EPA is not taking final action on this method at this time. EPA will respond to all comments regarding this method in a future action.

No comments were received that would warrant delaying final action concerning: EPA Method 515.4 for the determination of 2,4-D (as acid, salts and esters), 2,4,5-TP (Silvex), dinoseb, pentachlorophenol, picloram and dalapon; EPA Method 531.2 for the determination of carbofuran and oxamyl; Syngenta AG–625 for the determination of atrazine; QuikChem 10–204–00–1–X or Kelada 01 for the determination of cyanide; Readycult'' Coliforms 100 Presence/Absence Test and Membrane Filter Technique using Chromocult'' Coliform Agar for the determination of total coliforms and *E. coli*; SimPlate for the determination of heterotrophic bacteria; or Hach FilterTrak 10133 for the determination of turbidity. Therefore, these methods are approved for drinking water compliance monitoring as proposed.

One commenter suggested that the entries for cyanide in both of the tables located in § 141.23 were confusing. This commenter suggested that the tables be reordered, so that the analytical methods would be listed in the same order in both tables. This commenter also noted that the footnotes listing whether the method was for the determination of free or total cyanide were in error. In addition, this commenter noted that the detection limit listed for the Kelada 01 method was in error.

EPA agrees with the commenter. The tables in § 141.23 have been reordered, putting the analytical methods listed in the same order. The Agency intends to propose changes to the footnotes listing whether the method was for the determination of free or total cyanide in a future action. The detection limit for the Kelada 01 method has been corrected.

IV. Laboratory Approval and Certification for Aeromonas Monitoring

As a result of today's action, laboratories wishing to analyze samples for *Aeromonas* under the UCMR must use EPA Method 1605. EPA has previously specified, in § 141.40 (a)(5)(ii)(G)(*3*) (66 FR 2273, January 11, 2001), that *Aeromonas* analyses must be performed by laboratories certified under § 141.28 for compliance analyses of coliform indicator bacteria using an EPA approved membrane filtration procedure. Because of differences between EPA Method 1605 and existing membrane filtration methods for coliform indicator bacteria, laboratories performing EPA Method 1605 must also participate in proficiency testing (PT) studies to be conducted by EPA. Laboratories wishing to be approved to use Method 1605 for this monitoring should submit a ''request to participate'' letter to EPA and will be asked to analyze 10 samples for *Aeromonas* using Method 1605. Within 10 days of this rule being signed by the EPA Administrator, EPA will notify each large public water system selected to perform *Aeromonas* monitoring of the need for their laboratory to submit this ''request to participate'' letter. EPA has established 30 days following the publication of the final rule as the latest date by which it will be able to accept the ''request to participate'' letter due to the very short time left before the beginning of the monitoring program (January 2003). The ''request to participate'' letter should be mailed to: Technical Support Center *Aeromonas* PT Coordinator, EPA, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268. Upon completion of the *Aeromonas* PT Program, EPA will provide each successful laboratory with an approval letter identifying the laboratory by name and the approval date. This letter, and a copy of the laboratory's certification under § 141.28 for compliance analysis of coliform indicator bacteria using an EPA approved membrane filtration procedure, may then be presented to any Public Water System (PWS) as evidence of laboratory approval for *Aeromonas* analysis supporting the UCMR. Laboratory approval is contingent upon the laboratory having and maintaining certification to perform drinking water compliance monitoring using an approved coliform membrane filtration method. EPA will post a list of the laboratories that have successfully completed each PT study at *http//www.epa.gov/safewater/standard/ucmr/aprvlabs.html.*

All large and small systems selected for the Screening Survey will be notified by their State Drinking Water Authority or EPA at least 90 days before the dates established for collecting and submitting UCMR field samples to determine the presence of *Aeromonas.* The PWSs selected to conduct *Aeromonas* monitoring are listed at *http//www.epa.gov/safewater/standard/ucmr/systems.html.* Large systems must send samples to approved laboratories and then report the results to EPA as specified in § 141.35. All shipping and analytical costs incurred by monitoring requirements for small systems will be paid by EPA; however, small systems will be responsible for collecting these samples.

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 Office of Management and Budget (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 final rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements in this rule under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0204. An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1896.03) and a copy may be obtained from Susan Auby by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Avenue, NW, Washington, DC 20460; by e-mail at: *auby.susan@epa.gov*; or by calling (202) 566–1672. The information requirements are not effective until OMB approves them.

The information to be collected pursuant to today's final rule fulfills the statutory requirements of section 1445(a)(2) of the SDWA, as amended in 1996. The data to be collected will describe the source water, location, and test results for samples taken from PWSs. Reporting is mandatory. § 141.35. The data are not subject to confidentiality protection. The cost estimates described below for *Aeromonas* monitoring are attributed to laboratory fees, shipping costs, and some minimal labor burden for reading of requirements and for collecting samples. For large systems, labor burden estimates also consider activities related to reporting of results to EPA's UCMR database.

Average annual non-labor costs for each large system during the three-year ICR period of 2002–2004 are estimated to be $197. Each large and small system is required to collect *Aeromonas* samples an average of 2 times per year for the 2002–2004 period. EPA will incur no additional labor costs for implementation of today's final rule. The Agency's annual non-labor costs for the ICR period are estimated to be $50,310. These non-labor costs are solely attributed to the cost of sample testing and sample kit shipping for the 180 small systems. Annual costs and burdens are detailed in the following tables. A detailed discussion of these costs was presented in the **Federal Register** published on March 7, 2002 (67 FR 10532, March 7, 2002).

AVERAGE ANNUAL PWS BURDEN AND COST SUMMARY

[2002–2004]

Activity	Annual burden hours	Cost				Annual responses
		Annual labor cost	Annual O&M cost	Annual capital cost	Total annual cost	
180 Small PWSs (serving 10,000 or fewer)	253	$6,086	$0	$0	$6,086	360
120 Large PWSs (greater than 10,000)	100	2,403	23,640	0	26,043	240
Total	353	8,489	23,640	0	32,129	600

BOTTOM LINE ANNUAL BURDEN AND COST

[2002–2004]

Annual number of respondents	300 = 180	Small PWSs (serving 10,000 or fewer).
	+ 120	Large PWSs (serving greater than 10,000).
Total annual responses	600 = 360	Small PWS responses.
	+ 240	Large PWS responses.
Annual number of responses per respondent	2 = 600	Total annual responses from above.
	/300	Total annual respondents from above.
Total annual respondent hours	353 = 253	Small PWS.
	+ 100	Large PWS.
Hours per response	0.59 = 353	Total annual respondent hours from above.
	/600	Total annual responses from above.
Total annual O&M and capital cost	$23,640 = $0	180 small PWSs.
	+ $23,640	120 large PWSs.
Total annual respondent cost	$32,129 = $6,086	180 small PWSs.
	+ $26,043	120 large PWSs.
Total annual hours (resp. plus Agency)	353 = 353	Total annual respondent hours for PWSs.
	+ 0	Total annual EPA hours.
Total annual cost (resp. plus Agency)	$82,440 =	Total annual costs nationally.
	$32,130 +	Total annual respondent costs for PWSs.
	$50,310	Total annual EPA costs

Note that there is no capital cost associated with this Rule. Primacy agencies do not incur any costs associated with this Rule.

Today's rule also approves EPA Methods 515.4 and 531.2 to support monitoring already required under Phase II/V monitoring (§ 141.24), and approves seven additional industry-developed analytical methods. This part of today's final rule merely allows for the use of additional standardized methods, offering systems and their laboratories further operational flexibility. Thus, EPA believes that there is no cost or burden to public water

systems associated with the addition of these additional methods. In addition, because State adoption of analytical methods is voluntary, no costs are estimated for States related to the additional analytical methods that are included in today's final rule.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and use 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

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.

As for the UCMR, published on September 17, 1999 (64 FR 50555), EPA analyzed separately the impact on small privately and publicly owned water systems because of the different economic characteristics of these ownership types. For publicly owned systems, EPA used the ''revenue test,'' which compares a system's annual costs attributed to the rule with the system's annual revenues. EPA used a ''sales test'' for privately owned systems, which involves the analogous comparison of UCMR-related costs to a privately owned system's sales. Because EPA does not know the ownership types of the systems selected for *Aeromonas* monitoring, the Agency assumes that the distribution of the national representative sample of small systems will reflect the proportions of publicly and privately owned systems in the national inventory (as estimated by EPA's 1995 Community Water System Survey, *http://www.epa.gov/safewater/cwssvr.html*). The estimated distribution of the sample for today's final rule, categorized by ownership type, source water, and system size, is presented in the following table.

NUMBER OF PUBLICLY AND PRIVATELY OWNED SMALL SYSTEMS TO PARTICIPATE IN SCREENING SURVEY 2 FOR AEROMONAS

Size category	Publicly owned systems	Privately owned systems	Total—All Systems
Ground Water Systems			
500 and under	8	29	37
501 to 3,300	35	16	51
3,301 to 10,000	27	7	34
Subtotal Ground	70	52	122
Surface Water Systems			
500 and under	5	13	18
501 to 3,300	10	4	14
3,301 to 10,000	20	6	26
Subtotal Surface	35	23	58
Total	105	75	180

The basis for the UCMR RFA certification for today's final rule, which approves Method 1605 for the analysis of *Aeromonas,* was determined by evaluating the total cost as a percentage of system revenues/sales. In the worst-case-scenario, the smallest system size category (*i.e.*, 500 and under) is estimated to have revenues/sales of approximately $80,000. The total cost attributable to *Aeromonas* monitoring for these 55 systems represents less than 0.2 percent of their annual revenue/sales. The impact for larger systems will be even less significant. EPA specifically structured the rule to avoid significantly affecting small entities by assuming all costs for laboratory

analyses, shipping, and quality control for small entities. EPA incurs the entirety of the non-labor costs associated with *Aeromonas* monitoring, or 89 percent of all costs. Small systems only incur labor costs associated with the collection of *Aeromonas* samples and for reading about their sampling requirements, with an total labor cost per system of UCMR implementation of $101.50.

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 UMRA section 202, 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, UMRA section 205 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 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.

EPA has determined that today's final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or for the private sector in any one year. The only costs resulting from today's rule are those associated with the *Aeromonas* screening survey. EPA estimates that the total cost for State, local, and Tribal governments, and the private sector for one year of List 2 Screening Survey monitoring for *Aeromonas* (in 2003) is approximately $247,320, of which EPA will pay $150,930 or approximately 61 percent. The total costs not payed by EPA are $96,390 for the one year of *Aeromonas* monitoring (2003). State drinking water programs are assumed to incur no additional costs associated with the *Aeromonas* Screening Survey component of the UCMR. No costs are estimated/incurred for the other methods included in this final rule since they represent additional methods that public water systems may elect to use but that are not required. This rule does not withdraw earlier versions of methods, and there is no corresponding increase in expenditure or burden. Thus, today's final rule is not subject to the requirements of UMRA sections 202 and 205.

EPA has determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments because EPA will pay for the reasonable costs of testing for the small PWSs required to sample and test for *Aeromonas* under this final rule, including those owned and operated by small governments. The only costs that small systems will incur are those attributed to collecting the *Aeromonas* samples and packing them for shipping to the laboratory (EPA will also pay for shipping). These costs are minimal, and are neither significant nor unique. For the reasons stated above, no costs are estimated/incurred for the other methods. Thus, today's rule is not subject to the requirements of UMRA section 203.

E. Executive Order 13132—Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The objective of this final rule is to specify approved analytical methods, thereby allowing *Aeromonas* to be included in the UCMR Screening Survey program and approving EPA Methods 515.4 and 531.2 and seven additional industry-developed methods that public water systems may use to conduct analyses previously required. The cost to State and local governments is minimal, 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, titled ''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 responsiblitities 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. The objective of this final rule is to specify approved analytical methods, thereby allowing *Aeromonas* to be included in the UCMR Screening Survey program and approving EPA Methods 515.4, 531.2 and seven additional industry-developed methods that public water systems may use to conduct analyses previously required. Only one small Indian Tribal system was selected for

Aeromonas monitoring. Since this utility will be receiving sampling assistance from the State of Montana and EPA will pay for all shipping and analysis costs, the cost to the Tribal government will be minimal. The rule does not preempt Tribal law. 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 Risks & 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, this final rule does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

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, section12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. EPA identified no voluntary consensus standards for *Aeromonas.* Therefore, EPA has approved only EPA Method 1605 for *Aeromonas* monitoring.

Concerning the approval of EPA Method 515.4, while the Agency identified two new voluntary consensus methods (American Society for Testing and Materials (ASTM) D5317–98, and SM 6640 B) for the chlorinated acids as being potentially applicable, they are not included in this rule. EPA has decided not to approve SM 6640 B because the use of this voluntary consensus standard would have been impractical due to significant shortcomings in the sample preparation and quality control sections of the method instructions. Section 1b of Method SM 6640 B states that the alkaline wash detailed in section 4b2 is optional. The hydrolysis that occurs during this step is essential to the analysis of the esters of many of the analytes. Therefore, this step is necessary and cannot be optional. In addition, the method specifies that the quality control limits for laboratory fortified blanks are to be based upon plus or minus three times the standard deviation of the mean recovery of the analytes, as determined in each laboratory. Therefore, this method permits unacceptably large control limits which may include 0 percent recovery. ASTM D5317–98 specifies acceptance windows for the initial demonstration of proficiency for laboratory fortified blank samples that are as small as 0 percent to as large as 223 percent recovery for picloram, with tighter criteria for other regulated contaminants. Therefore, this method permits unacceptably large control limits which include 0 percent recovery. Since SM 6640 B has significant shortcomings in the sample preparation and quality control sections and D5317–98 has unacceptably large quality control limits use of these methods for drinking water analysis is impractical. Therefore, EPA is approving only EPA Method 515.4 for the chlorinated acids at this time.

Concerning the approval of EPA Method 531.2, while the Agency identified two new voluntary consensus methods (Standard Method 6610, 20th Edition, and Standard Method 6610, 20th Supplemental Edition) as being potentially applicable for the analysis of carbamates, the Agency is not approving them in this rulemaking. Standard Method 6610, 20th Edition has recently been approved for compliance monitoring. Standard Method 6610, 20th Supplemental Edition permits the use of a strong acid, hydrochloric acid (HCL), as a preservative. The preservatives in all of the other approved EPA and Standard Methods procedures for these analytes are weak acids that adjust the pH to a specific value based upon the pKa of the preservative. The use of HCL would require accurate determinations of the pH of the sample in the field and could be subject to considerable error and possible changes in pH upon storage. Although not specifically observed for oxamyl or carbofuran during the development of similar methods, structurally similar pesticides have been shown to degrade over time when kept at pH 3. Therefore, approval of this method is impractical because it specifies the use of a strong acid (HCL) when positive control of the pH is critical. Therefore, EPA is approving only EPA Method 531.2 for determining oxamyl and carbofuran.

The seven other analytical methods being approved in this regulation are additional analytical methods for use in drinking water compliance monitoring, submitted to EPA by industry. These industry-developed methods will supplement existing approved methods, some of which are voluntary consensus standards.

J. Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (February 11, 1994), focuses Federal attention on the environmental and human health conditions of minority and low-income populations with the goal of achieving environmental protection for all communities. This regulation adds new analytic methods to part 141. It does not withdraw any currently approved methods nor does it add or alter any current monitoring requirement. The purpose of this regulation is to provide additional analytical methods for

drinking water utilities to use to meet the currently existing monitoring requirements. EPA has determined that there are no environmental justice issues in this rulemaking.

K. 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 (SBREFA), 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 November 29, 2002.

L. Administrative Procedures Act

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing prior notice and an opportunity for public comment. EPA is publishing several rule changes related to today's action that were not included in the proposal. First, the address for the Water Docket has been corrected in § 141.24(e)(1) and in the text accompanying the tables at §§ 141.21(f)(3), 141.23(k)(1), 141.40(a)(3) and 141.74(a)(1). Second, the address for the Water Resource Center has been corrected in footnote 6 to the table in § 141.21(f)(3). Finally, the address for the National Technical Information Service was added in footnote 6 to the table at § 141.23(k)(1). EPA has determined that there is ''good cause'' for making these rule changes final without prior proposal and opportunity for comment because these rule changes have no substantive impact and merely correct or replace outdated CFR text. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes ''good cause'' under 5 U.S.C. 553(b)(B). For the same reasons, EPA is making these rule changes effective upon publication. 5 U.S.C. 553(d)(3).

M. Plain Language Directive

Executive Order 12866 calls for each agency to write its rules in plain language. Readable regulations help the public find requirements quickly and understand them easily. They increase compliance, strengthen enforcement, and decrease mistakes, frustration, phone calls, appeals, and distrust of government. EPA made every effort to write this preamble to the final rule in as clear, concise, and unambiguous manner as possible. Today's final rule language is largely in a table format consistent with the format of the CFR sections being amended.

List of Subjects in 40 CFR Part 141

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

Dated: October 18, 2002.

Christine Todd Whitman,

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:

a. By revising the Table in paragraph (f)(3);

b. By adding paragraphs (f)(6) (viii) and (ix).

The revision and additions 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]	9222 A, B, C
	Presence-Absence (P–A) Coliform Test [5,7]	9221 D
	ONPG–MUG Test [8]	9223
	Colisure Test [9]	
	E*Colite® Test [10]	
	m-ColiBlue24® Test [11]	
	Readycult® Coliforms 100 Presence/Absence Test [13]	
	Membrane Filter Technique using Chromocult® Coliform Agar [14]	

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 and 14 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, D.C. 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 Colilert 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.*

* * * * *

(6) * * *

(viii) Readycult® Coliforms 100 Presence/Absence Test, a description of which is cited in footnote 13 to the table at paragraph (f)(3) of this section.

(ix) Membrane Filter Technique using Chromocult® Coliform Agar, a description of which is cited in footnote 14 to the table at paragraph (f)(3) of this section.

* * * * *

3. Section 141.23 is amended by revising the entry for ''Cyanide'' in the table in paragraph (a)(4)(i) and in the table in paragraph (k)(1) to read as follows:

§ 141.23 Inorganic chemical sampling and analytical requirements.

* * * * *

(a) * * *

(4) * * *

(i) * * *

DETECTION LIMITS FOR INORGANIC CONTAMINANTS

Contaminant	MCL (mg/L)	Methodology	Detection limit (mg/L)
*	*	* * * * *	*
Cyanide	0.2	Distillation, Spectrophotometric [3]	0.02
		Distillation, Automated, Spectrophotometric [3]	0.005
		Distillation, Amenable, Spectrophotometric [4]	0.02
		Distillation, Selective Electrode [3]	0.05
		UV, Distillation, Spectrophotometric	0.0005
		istillation, Spectrophotometric	0.0006
*	*	* * * * *	*

[3] Screening method for total cyanides.
[4] Measures ''free'' cyanides.

* * * * *

(k) * * *

(1) * * *

Contaminant and methodology [13]	EPA	ASTM [3]	SM [4] (18th, 19th ed.)	SM [4] (20th ed.)	Other
*	*	*	*	*	*
12. Cyanide:					
Manual Distillation followed by.		D2036–98A	4500–CN^- C	4500–CN^- C.	
Spectrophotometric Manual.		D2036–98A	4500–CN^- E	4500–CN^- E	I–3300-85 [5]
Spectrophotometric Semi-automated.	335.4 [6]				
Spectrophotometric, Amenable.		D2036–98B	4500–CN^- G	4500–CN^- G.	
Selective Electrode			4500–CN^- F	4500–CN^- F.	
UV/Distillation/ Spectrophotometric.					Kelada 01 [17]
Distillation/ Spectrophotometric.					QuikChem 10–204–00–1–X [18]

Contaminant and methodology [13]	EPA	ASTM [3]	SM [4] (18th, 19th ed.)	SM [4] (20th ed.)	Other
*	*	*	*	*	*

The procedures shall be done in accordance with the documents listed below. The incorporation by reference of the following documents listed in footnotes 1–11,16 and 17–18 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, 1301 Constitution Avenue, NW., EPA West, Room B102, Washington, DC 20460 (Telephone: 202–566–2426); or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

[3] *Annual Book of ASTM Standards,* 1994, 1996, or 1999, Vols. 11.01 and 11.02, ASTM International; any year containing the cited version of the method may be used. The previous versions of D1688–95A, D1688–95C (copper), D3559–95D (lead), D1293–95 (pH), D1125–91A (conductivity) and D859–94 (silica) are also approved. These previous versions D1688–90A, C; D3559–90D, D1293–84, D1125–91A and D859–88, respectively are located in the Annual Book of ASTM Standards, 1994, Vol. 11.01. Copies may be obtained from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428.

[4] *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, except that the versions of 3111B, 3111D, 3113B and 3114B in the 20th edition may not be used.

[5] Method I–2601–90, Methods for Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments, Open File Report 93–125, 1993; For Methods I–1030–85; I–1601–85; I–1700–85; I–2598–85; I–2700–85; and I–3300–85 See Techniques of Water Resources Investigation of the U.S. Geological Survey, Book 5, Chapter A–1, 3rd ed.,1989; Available from Information Services, U.S. Geological Survey, Federal Center, Box 25286, Denver, CO 80225–0425.

[6] ''Methods for the Determination of Inorganic Substances in Environmental Samples'', EPA/600/R–93/100, August 1993. Available at NTIS, PB94–120821. Available at NTIS, PB94–120821, 5285 Port Royal Road, Springfield, VA 22161. The toll free telephone number is 800–553–6847.

* * * * *

[13] Because MDLs reported in EPA Methods 200.7 and 200.9 were determined using a 2X preconcentration step during sample digestion, MDLs determined when samples are analyzed by direct analysis (*i.e.*, no sample digestion) will be higher. For direct analysis of cadmium and arsenic by Method 200.7, and arsenic by Method 3120 B sample preconcentration using pneumatic nebulization may be required to achieve lower detection limits. Preconcentration may also be required for direct analysis of antimony, lead, and thallium by Method 200.9; antimony and lead by Method 3113 B; and lead by Method D3559–90D unless multiple in-furnace depositions are made.

* * * * *

[17] The description for the Kelada 01 Method, ''Kelada Automated Test Methods for Total Cyanide, Acid Dissociable Cyanide, And Thiocyanate'', Revision 1.2, August 2001, EPA # 821–B–01–009 for cyanide is available from the National Technical Information Service (NTIS), PB 2001–108275, 5285 Port Royal Road, Springfield, VA 22161. The toll free telephone number is 800–553–6847.

[18] The description for the QuikChem Method 10–204–00–1-X, ''Digestion and distillation of total cyanide in drinking and wastewaters using MICRO DIST and determination of cyanide by flow injection analysis'', Revision 2.1, November 30, 2000 for cyanide is available from Lachat Instruments, 6645 W. Mill Rd., Milwaukee, WI 53218, USA. Phone: 414–358–4200.

* * * * *

4. Section 141.24 is amended by revising paragraph (e)(1), introductory text and the table in paragraph (e)(1) to read as follows:

§ 141.24 Organic chemical, sampling and analytical requirements.

* * * * *

(e) * * *

(1) The following documents are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected at EPA's Drinking Water Docket, 1301 Constitution Avenue, NW., EPA West, Room B102, Washington DC 20460 (Telephone: 202–566–2426); or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Method 508A and 515.1 are in *Methods for the Determination of Organic Compounds in Drinking Water,* EPA/600/4–88–039, December 1988, Revised, July 1991. Methods 547, 550 and 550.1 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement I,* EPA/600–4–90–020, July 1990. Methods 548.1, 549.1, 552.1 and 555 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement II,* EPA/600/R–92–129, August 1992. Methods 502.2, 504.1, 505, 506, 507, 508, 508.1, 515.2, 524.2, 525.2, 531.1, 551.1 and 552.2 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III,* EPA/600/R–95–131, August 1995. Method 1613 is titled ''Tetra-through Octa-Chlorinated Dioxins and Furans by Isotope-Dilution HRGC/HRMS'', EPA/821–B–94–005, October 1994. These documents are available from the National Technical Information Service, NTIS PB91–231480, PB91–146027, PB92–207703, PB95–261616 and PB95–104774, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–553–6847. Method 6651 shall be followed in accordance with *Standard Methods for the Examination of Water and Wastewater,* 18th edition (1992), 19th edition (1995), or 20th edition (1998), American Public Health Association (APHA); any of these three editions may be used. Method 6610 shall be followed in accordance with *Standard Methods for the Examination of Water and Wastewater, (18th Edition Supplement)* (1994), or with the 19th edition (1995) or 20th edition (1998) of *Standard Methods for the Examination of Water and Wastewater*; any of these three editions may be used. The APHA documents are available from APHA, 1015 Fifteenth Street NW., Washington, D.C. 20005. Other required analytical test procedures germane to the conduct of these analyses are contained in *Technical Notes on Drinking Water Methods,* EPA/600/R–94–173, October 1994, NTIS PB95–104766. EPA Methods 515.3 and 549.2 are available from U.S. Environmental Protection Agency, National Exposure Research Laboratory (NERL)-Cincinnati, 26 West Martin Luther King Drive, Cincinnati, OH 45268. ASTM Method D 5317–93 is available in the *Annual Book of ASTM Standards,* (1999), Vol. 11.02, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or in any edition published after 1993. EPA Method 515.4, ''Determination of Chlorinated Acids in Drinking Water by Liquid-Liquid Microextraction, Derivatization and Fast Gas Chromatography with Electron Capture Detection,'' Revision 1.0, April 2000, EPA /815/B–00/001 can be accessed and downloaded directly on-line at *www.epa.gov/safewater/methods/sourcalt.html.* The Syngenta AG–625, ''Atrazine in Drinking Water by Immunoassay'', February 2001 is available from Syngenta Crop Protection, Inc., 410 Swing Road, Post Office Box 18300, Greensboro, NC

27419, Phone number (336) 632–6000. Method 531.2 ''Measurement of N-methylcarbamoyloximes and N-methylcarbamates in Water by Direct Aqueous Injection HPLC with Postcolumn Derivatization,'' Revision 1.0, September 2001, EPA 815/B/01/002 can be accessed and downloaded directly on-line at *www.epa.gov/safewater/methods/sourcalt.html.*

Contaminant	EPA method [1]	Standard methods	ASTM	Other
1. Benzene	502.2, 524.2.			
2. Carbon tetrachloride	502.2, 524.2, 551.1.			
3. Chlorobenzene	502.2, 524.2.			
4. 1,2-Dichlorobenzene	502.2, 524.2.			
5. 1,4-Dichlorobenzene	502.2, 524.2.			
6. 1,2-Dichloroethane	502.2, 524.2.			
7. cis-Dichloroethylene	502.2, 524.2.			
8. trans-Dichloroethylene	502.2, 524.2.			
9. Dichloromethane	502.2, 524.2.			
10. 1,2-Dichloropropane	502.2, 524.2.			
11. Ethylbenzene	502.2, 524.2.			
12. Styrene	502.2, 524.2.			
13. Tetrachloroethylene	502.2, 524.2, 551.1.			
14. 1,1,1-Trichloroethane	502.2, 524.2, 551.1.			
15. Trichloroethylene	502.2, 524.2, 551.1.			
16. Toluene	502.2, 524.2.			
17. 1,2,4-Trichlorobenzene	502.2, 524.2.			
18. 1,1-Dichloroethylene	502.2, 524.2.			
19. 1,1,2-Trichloroethane	502.2, 524.2, 551.1.			
20. Vinyl chloride	502.2, 524.2.			
21. Xylenes (total)	502.2, 524.2.			
22. 2,3,7,8-TCDD (dioxin)	1613.			
23. 2,4-D [4] (as acid, salts and esters)	515.2, 555, 515.1, 515.3, 515.4.	.....	D5317–93.	
24. 2,4,5-TP [4] (Silvex)	515.2, 555, 515.1, 515.3, 515.4.	.....	D5317–93.	
25. Alachlor [2]	507, 525.2, 508.1, 505, 551.1.			
26. Atrazine [2]	507, 525.2, 508.1, 505, 551.1.	.....	.....	Syngenta AG–625.
27. Benzo(a)pyrene	525.2, 550, 550.1.			
28. Carbofuran	531.1, 531.2	6610.		
29. Chlordane	508, 525.2, 508.1, 505.			
30. Dalapon	552.1, 515.1, 552.2, 515.3, 515.4.			
31. Di(2-ethylhexyl)adipate	506, 525.2.			
32. Di(2-ethylhexyl)phthalate	506, 525.2.			
33. Dibromochloropropane (DBCP)	504.1, 551.1.			
34. Dinoseb [4]	515.2, 555, 515.1, 515.3, 515.4.			
35. Diquat	549.2.			
36. Endothall	548.1.			
37. Endrin	508, 525.2, 508.1, 505, 551.1.			
38. Ethylene dibromide (EDB)	504.1, 551.1.			
39. Glyphosate	547	6651.		
40. Heptachlor	508, 525.2, 508.1, 505, 551.1.			
41. Heptachlor Epoxide	508, 525.2, 508.1, 505, 551.1.			

Contaminant	EPA method [1]	Standard methods	ASTM	Other
42. Hexachlorobenzene	508, 525.2, 508.1, 505, 551.1.			
43. Hexachlorocyclopentadiene	508, 525.2, 508.1, 505, 551.1.			
44. Lindane	508, 525.2, 508.1, 505, 551.1.			
45. Methoxychlor	508, 525.2, 508.1, 505, 551.1.			
46. Oxamyl	531.1, 531.2	6610.		
47. PCBs [3] (as decachlorobiphenyl)	508A.			
48. PCBs [3] (as Aroclors)	508.1, 508, 525.2, 505.			
49. Pentachlorophenol	515.2, 525.2, 555, 515.1, 515.3, 515.4.		D5317–93.	
50. Picloram [4]	515.2, 555, 515.1, 515.3, 515.4.		D5317–93.	
51. Simazine [2]	507, 525.2, 508.1, 505, 551.1.			
52. Toxaphene	508, 508.1, 525.2, 505.			
53. Total Trihalomethanes	502.2, 524.2, 551.1.			

[1] For previously approved EPA methods which remain available for compliance monitoring until June 1, 2001, see paragraph (e)(2) of this section.

[2] Substitution of the detector specified in Method 505, 507, 508 or 508.1 for the purpose of achieving lower detection limits is allowed as follows. Either an electron capture or nitrogen phosphorous detector may be used provided all regulatory requirements and quality control criteria are met.

[3] PCBs are qualitatively identified as Aroclors and measured for compliance purposes as decachlorobiphenyl. Users of Method 505 may have more difficulty in achieving the required detection limits than users of Methods 508.1, 525.2 or 508.

[4] Accurate determination of the chlorinated esters requires hydrolysis of the sample as described in EPA Methods 515.1, 515.2, 515.3, 515.4 and 555 and ASTM Method D5317–93.

* * * * *

5. Section 141.40 is amended by revising in Table 1, the second ''List 2—Screening Survey Microbiological Contaminants to be sampled after notice of analytical methods availability'' under paragraph (a)(3), and revising footnote h, to read as follows:

§ 141.40 Monitoring requirements for unregulated contaminants.

(a) * * *

(3) * * *

TABLE 1. UNREGULATED CONTAMINANT MONITORING REGULATION (1999) LIST

* * * * * * *

LIST 2—SCREENING SURVEY MICROBIOLOGICAL CONTAMINANTS TO BE SAMPLED

1—contaminant	2—identification number	3—analytical methods	4—minimum reporting level	5—sampling location	6—period during which monitoring to be completed
Aeromonas	NA	EPA Method 1605 [h]	0.2—CFU/100mL [f]	Distribution System [g]	2003

Column headings are:

1—Chemical or microbiological contaminant: the name of the contaminants to be analyzed.

2—CAS (Chemical Abstract Service Number) Registry No. or Identification Number: a unique number identifying the chemical contaminants.

3—Analytical Methods: method numbers identifying the methods that must be used to test the contaminants.

4—Minimum Reporting Level: the value and unit of measure at or above which the concentration or density of the contaminant must be measured using the Approved Analytical Methods.

5—Sampling Location: the locations within a PWS at which samples must be collected.

6—Years During Which Monitoring to be Completed: the years during which the sampling and testing are to occur for the indicated contaminant.

The procedures shall be done in accordance with the documents listed next in these footnotes. The incorporation by reference of the following documents listed in footnotes a-c and h 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 following sources. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–426–4791. Copies of the documents may be obtained from the sources listed in these footnotes. Information regarding obtaining these documents can be obtained from the Safe Drinking Water Hotline at 800–476–4791. Documents may be inspected at EPA's Drinking Water Docket, 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.

[f] Minimum Reporting Level represents the value of the lowest concentration precision and accuracy determination made during methods development and documented in the method. If method options are permitted, the concentration used was for the least sensitive option.

[g] Three samples must be taken from the distribution system, which is owned or controlled by the selected PWS. The sample locations must include one sample from a point (MD from § 141.35(d)(3), Table 1) where the disinfectant residual is representative of the distribution system. This sample location may be selected from sample locations which have been previously identified for samples to be analyzed for coliform indicator bacteria. Coliform sample locations encompass a variety of sites including midpoint samples which may contain a disinfectant residual that is typical of the system. Coliform sample locations are described in 40 CFR 141.21. This same approach must be used for the *Aeromonas* midpoint sample where the disinfectant residual would not have declined and would be typical for the distribution system. Additionally, two samples must be taken from two different locations: The distal or dead-end location in the distribution system (MR from § 141.35(d)(3), Table 1), avoiding disinfectant booster stations, and from a location where previous determinations have indicated the lowest disinfectant residual in the distribution system (LD from § 141.35(d)(3), Table 1). If these two locations of distal and low disinfectant residual sites coincide, then the second sample must be taken at a location between the MD and MR sites. Locations in the distribution system where the disinfectant residual is expected to be low are similar to TTHM sampling points. Sampling locations for TTHMs are described in 63 FR 69468.

[h] EPA Method 1605 ''*Aeromonas* in Finished Water by Membrane Filtration using Ampicillin-Dextrin Agar with Vancomycin (ADA–V)'', October 2001, EPA # 821–R–01–034. The method can be accessed and downloaded directly on-line at *www.epa.gov/microbes*.

* * * * *

6. Section 141.74 is amended by revising the table in paragraph (a)(1) to read as follows:

§ 141.74 Analytical and monitoring requirements.

(a) * * *

(1) * * *

Organism	Methodology	Citation [1]
Total Coliform [2]	Total Coliform Fermentation Technique [3 4 5]	9221 A, B, C
	Total Coliform Membrane Filter Technique [6]	9222 A, B, C
	ONPG-MUG Test [7]	9223
Fecal Coliforms [2]	Fecal Coliform Procedure [8]	9221 E
	Fecal Coliform Filter Procedure	9222 D
Heterotrophic bacteria [2]	Pour Plate Method	9215 B
	SimPlate [11].	
Turbidity	Nephelometric Method	2130 B
	Nephelometric Method	180.1 [9]
	Great Lakes Instruments	Method 2 [10]
	Hach FilterTrak	10133 [12]

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, 7 and 9–12 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, 1301 Constitution Avenue, NW., EPA West, Room B102, Washington DC 20460 (Telephone: 202–566–2426); or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC 20408.

[1] Except where noted, all methods refer to *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 8 hours. Systems must 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] Media should cover inverted 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] The ONPG–MUG Test is also known as the Autoanalysis Colilert System.

[8] A–1 Broth may be held up to three months in a tightly closed screw cap tube at 4 deg. C.

[9] ''Methods for the Determination of Inorganic Substances in Environmental Samples'', EPA/600/R–93/100, August 1993. Available at NTIS, PB94–121811.

[10] GLI Method 2, ''Turbidity'', November 2, 1992, Great Lakes Instruments, Inc., 8855 North 55th Street, Milwaukee, Wisconsin 53223.

[11] A description of the SimPlate method, ''IDEXX SimPlate TM HPC Test Method for Heterotrophs in Water'', November 2000, can be obtained from IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092, telephone (800) 321–0207.

[12] A description of the Hach FilterTrak Method 10133, ''Determination of Turbidity by Laser Nephelometry'', January 2000, Revision 2.0, can be obtained from; Hach Co., P.O. Box 389, Loveland, Colorado 80539–0389. Phone: 800–227–4224.

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[FR Doc. 02–27133 Filed 10–28–02; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02; I.D. 102302A]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for king mackerel in the exclusive economic zone (EEZ) in the western zone of the Gulf of Mexico. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective 12 noon, local time, October 25, 2002, through June 30, 2003.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 727–570–5305, fax 727–570–5583, e-mail Mark.Godcharles@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the western zone of 1.01 million lb (0.46 million kg) (66 FR 17368, March 30, 2001).

Under 50 CFR 622.43(a), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the **Federal Register**. NMFS has determined that the commercial quota of 1.01 million lb (0.46 million kg) for Gulf group king mackerel in the western zone will be reached on October 24, 2002. Accordingly, the commercial fishery for Gulf group king mackerel in the western zone is closed effective 12 noon, local time, October 25, 2002, through June 30, 2003, the end of the fishing year. The boundary between the eastern and western zones is 87°31′06''W. long., which is a line directly south from the Alabama/Florida boundary.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king mackerel has been issued may fish for Gulf group king mackerel in the EEZ in the closed zones or subzones. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zones or subzones under the bag and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided the vessel is operating as a charter vessel or headboat. A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zones or subzones taken in the EEZ, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the closed zones or subzones that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B), as such procedures would be unnecessary and contrary to the public interest. Similarly, there is a need to implement these measures in a timely fashion (manner) to prevent an overrun of the commercial quota of Gulf group king mackerel, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be impractical and contrary to the Magnuson-Stevens Act, the FMP, and the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 23, 2002.

Dean Swanson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020606142–2234–02; I.D. 041802F]

RIN 0648–AP39

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Experimental Setnet Sablefish Landings To Qualify Limited Entry Sablefish-Endorsed Permits for Tier Assignment

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

ACTION: Final rule; technical correction.

SUMMARY: NMFS announces approval of a regulatory amendment to revise sablefish tier qualifications for the limited entry, fixed gear, primary sablefish fishery. NMFS issues this final rule to amend tier qualifications to include sablefish landings taken under the provisions of an exempted fishing permit (EFP) from 1984–1985 with setnet gear north of 38° N. latitude (lat.). Setnet EFP landings will be added to the current pot (trap) and longline landings to qualify a sablefish-endorsed permit for its tier assignment. This rule is intended to recognize historical sablefish landings made by current primary season participants.

DATES: Effective October 24, 2002.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) for this action are available from Donald McIsaac,