

ambient water for enumeration of *E. coli*, enterococci, *Cryptosporidium*, or *Giardia*. EPA does not, however, require use of these methods under this rule. 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. EPA did not receive comments from Tribal officials. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045 (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 rule is not subject to the Executive Order because it is not “economically significant” as defined in 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.

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

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is

not a significant regulatory action under Executive Order 12866.

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

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995, (“NTTAA”), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (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’s search of the technical literature revealed several consensus methods appropriate for enumerating *E. coli* and enterococci in ambient waters. Accordingly, methods for *E. coli* and enterococci published by Standard Methods for the Examination of Water and Wastewater, ASTM, and AOAC-International are included for promulgation and are listed in Table IA at the end of this document (*see* footnotes 4, 10, and 11, respectively, for the complete citations). No voluntary consensus standards were found for *Cryptosporidium* or *Giardia*.

**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 (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 August 20, 2003.

**List of Subjects in 40 CFR Part 136**

Environmental protection, Incorporation by reference, Reporting and recordkeeping requirements, Water pollution control.

Dated: July 11, 2003.

**Linda J. Fisher,**

*Acting Administrator.*

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

**PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS**

■ 1. The authority citation for part 136 continues to read as follows:

**Authority:** Secs. 301, 304(h), 307, and 501(a), Pub. L. 95–217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977.)

■ 2. Section 136.3 is amended:

■ a. In paragraph (a) by revising Table IA.

■ b. In paragraph (b) by revising references (10), (34), (38) and (39) and adding references (52) through (62).

■ c. In Table II to paragraph (e) by revising entries to the Section labeled “Table IA—Bacteria Tests,” to read as follows:

\* \* \* \* \*

(a) \* \* \*

TABLE IA.—LIST OF APPROVED BIOLOGICAL METHODS

Parameter and units	Method <sup>1</sup>	EPA	Standard methods 18th, 19th, 20th Ed.	ASTM	AOAC	USGS	Other
Bacteria:							
1. Coliform (fecal), number per 100 mL.	Most Probable Number (MPN), 5 tube 3 dilution, or Membrane filter (MF) <sup>2</sup> , single step.	p. 132 <sup>3</sup>	9221C E <sup>4</sup>				
		p. 124 <sup>3</sup>	9222D <sup>4</sup>			B–0050–85 <sup>5</sup>	