

Federal Food, Drug, and Cosmetic Act dealing with adulterated foods.

* * * * *

■ 3. Section 129.80 is amended by revising paragraph (g)(1) to read as follows:

§ 129.80 Processes and controls.

* * * * *

(g) * * *

(1) For bacteriological purposes, take and analyze at least once a week for total coliform a representative sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample shall consist of primary containers of product or unit packages of product. If any coliform organisms are detected, follow-up testing must be conducted to determine whether any of the coliform organisms are *E. coli*.

* * * * *

PART 165—BEVERAGES

■ 4. The authority citation for 21 CFR part 165 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 343, 343–1, 348, 349, 371, 379e.

■ 5. Section 165.110 is amended by revising paragraphs (b)(2), (b)(3) introductory text, (c)(1), and (d) to read as follows:

§ 165.110 Bottled water.

* * * * *

(b) * * *

(2) *Microbiological quality.* (i) Bottled water shall, when a sample consisting of analytical units of equal volume is examined by the methods described in paragraph (b)(2)(ii) of this section, meet the following standards of microbiological quality:

(A) *Total coliform—(1) Multiple-tube fermentation (MTF) method.* Not more than one of the analytical units in the sample shall have a most probable number (MPN) of 2.2 or more coliform organisms per 100 milliliters and no analytical unit shall have an MPN of 9.2 or more coliform organisms per 100 milliliters; or

(2) *Membrane filter (MF) method.* Not more than one of the analytical units in the sample shall have 4.0 or more coliform organisms per 100 milliliters and the arithmetic mean of the coliform density of the sample shall not exceed one coliform organism per 100 milliliters.

(B) *E. coli.* If *E. coli* is present, then the bottled water will be deemed adulterated under paragraph (d) of this section.

(ii) Analyses conducted to determine compliance with paragraphs (b)(2)(i)(A)

and (b)(2)(i)(B) of this section and § 129.35(a)(3)(i) of this chapter shall be made in accordance with the multiple-tube fermentation (MTF) or the membrane filter (MF) methods described in the applicable sections of “Standard Methods for the Examination of Water and Wastewater,” 21st Ed. (2005), American Public Health Association. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the American Public Health Association, 800 I St. NW., Washington, DC 20001, 202–777–2742 (APHA). You may inspect a copy at the Center for Food Safety and Applied Nutrition’s Library, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2163, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(3) *Physical quality.* Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the method described in applicable sections of “Standard Methods for the Examination of Water and Wastewater,” 15th Ed. (1980), American Public Health Association, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 (copies may be obtained from the American Public Health Association, 800 I St. NW., Washington, DC 20001, 202–777–2742 (APHA), or a copy may be examined at the National Archives and Records Administration (NARA), or at the Center for Food Safety and Applied Nutrition’s Library, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2163, for information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html), meet the following standards of physical quality:

* * * * *

(c) *Label statements.* * * *
(1) “Contains Excessive Bacteria” if the bottled water fails to meet the requirements of paragraph (b)(2)(i)(A) of this section.

* * * * *

(d) *Adulteration.* Bottled water containing a substance at a level considered injurious to health under section 402(a)(1) of the Federal Food, Drug, and Cosmetic Act (the act), or that consists in whole or in part of any

filthy, putrid, or decomposed substance, or that is otherwise unfit for food under section 402(a)(3) of the act is deemed to be adulterated, regardless of whether or not the water bears a label statement of substandard quality prescribed by paragraph (c) of this section. If *E. coli* is present in bottled water, then the bottled water will be deemed adulterated under section 402(a)(3) of the act.

Dated: May 21, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–12494 Filed 5–26–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0391]

RIN 1625–AA00

Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Navy Pier Southeast Safety Zone in Chicago Harbor from May 2009 through June 2009. This action is necessary protect vessels and people from the hazards associated with fireworks displays. During the enforcement period, no person or vessel may enter the security zone without the permission of the Captain of the Port Lake Michigan Zone.

DATES: The regulations in § 165.931 will be enforced from May 23, until June 27, 2009.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail BM2 Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7154, e-mail adam.d.kraft@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone; Chicago Harbor, Navy Pier Southeast, Chicago, IL in 33 CFR 165.931 for the following events during the dates and times indicated below:

(1) *Navy Pier Sunday Fireworks;* on May 24, 2009 from 9:15 p.m. through 9:45 p.m.

(2) *Navy Pier Wednesday Fireworks;* on May 27, 2009 from 9:15 p.m. through 9:45 p.m.; on June 3, 2009 from 9:15

p.m. through 9:45 p.m.; on June 10, 2009 from 9:15 p.m. through 9:45 p.m.; on June 17, 2009 from 9:15 p.m. through 9:45 p.m.; on June 24, 2009 from 9:15 p.m. through 9:45 p.m.

(3) *Navy Pier Saturday Fireworks*; on May 23, 2009 from 10 p.m. through 10:40 p.m.; on May 30, 2009 from 10 p.m. through 10:40 p.m.; on June 6, 2009 from 10 p.m. through 10:40 p.m.; on June 13, 2009 from 10 p.m. through 10:40 p.m.; on June 20, 2009 from 10 p.m. through 10:40 p.m.; on June 27, 2009 from 10 p.m. through 10:40 p.m.

All vessels must obtain permission from the Captain of the Port or his designated representative to enter, move within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.931 Safety Zone, Chicago Harbor, Navy Pier Southeast, Chicago, IL. (published on June 13, 2007 at 72 FR 32520) and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will also issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. The Captain of the Port may be contacted via U.S. Coast Guard Sector Lake Michigan on channel 16, VHF-FM.

Dated: May 14, 2009.

Bruce C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E9-12602 Filed 5-28-09; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA-HQ-OAR-2002-0071; FRL-8910-5]

RIN 2060-AP13

Update of Continuous Instrumental Test Methods; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA published a final rule in the **Federal Register** on May 22, 2008,

that made technical corrections to five test methods. Inadvertent printing errors were made in the publication. Text insertions were misplaced, duplicate insertions were made, and the definition for system bias was inadvertently revised. The purpose of this action is to correct these errors.

DATES: This correction is effective on June 29, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Foston Curtis, Air Quality Assessment Division, Office of Air Quality Planning and Standards (E143-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541-1063; fax number (919) 541-0516; e-mail address: curtis.foston@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Summary of Amendment

EPA promulgated revisions to continuous instrumental test methods on May 22, 2008, where a number of technical amendments were made to five test methods. Several of the revisions were added to the text in the wrong places and in some cases duplicate insertions were made. The definition for system bias was also inadvertently revised. This action corrects those publication errors.

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(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 notice and an opportunity for public comment. We have determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment because only simple publication errors are being corrected that do not substantially change the Agency actions taken in the final rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(3)(B). (See also the final sentence of section 307(d)(1) of the Clean Air Act (CAA), 42 U.S.C. 307(d)(1), indicating that the good cause provisions in subsection 553(b) of the APA continue to apply to this type of rulemaking under section 307(d) of the CAA.

II. Statutory and Executive Order Reviews

Under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the

Office of Management and Budget. This action is not a "major rule" as defined by 5 U.S.C. 804(2). The technical corrections do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Because EPA has made a "good cause" finding that this action is not subject to notice and comment requirements under the APA or any other statute (see Section II), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) [Pub. L. 104-4]. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

This action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000). This correction also is not subject to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because it is not economically significant.

This technical correction does not involve changes to the technical standards related to test methods or monitoring requirements; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply.

This technical correction also does not involve special consideration of environmental justice-related issues as required by Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

The Congressional Review Act (CRA), 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 U.S. Section 808 allows the issuing Agency to make a rule effective sooner than otherwise provided by the CRA if the Agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This