

## ADVISORY PANEL EYEING STRICTER REGULATION OF E. COLI IN DRINKING WATER

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Members of a federal advisory committee working to alter a key EPA regulation limiting bacteria in drinking water, known as the total coliform rule (TCR), are leaning toward eliminating strict limits for total coliform in drinking water systems and instead are eyeing stricter regulation of E. coli -- believed to be a better indicator of harmful bacteria.

Coliform bacteria are harmless, but are regulated as an indicator that more dangerous microbes may be present in water, such as those from fecal matter. Currently, there is a maximum contaminant level (MCL) for total coliform and E. coli, but the advisory group is weighing whether to only require a treatment technique for total coliform rather than an MCL, and increase baseline monitoring for E. coli.

The advisory panel, formed last year under the Federal Advisory Committee Act, includes agency representatives, environmentalists and drinking water industry officials seeking to help the agency update the TCR, and appears to be leaning towards minimalizing the role of total coliform testing in the rule in favor of more accurate indicators and speedier monitoring requirements. The group, known as the TCR Distribution System Advisory Committee, met Feb. 20-21 in Washington, DC.

The committee is tasked with determining “what data should be collected, research conducted, and/or risk management strategies evaluated to better inform distribution system contaminant occurrence and associated public health risks in the distribution systems,” according to the advisory committee’s charge document.

Some in the drinking water industry have argued that coliform standards should be relaxed because coliform is not a contaminant, and in recent years, scientific advances have made it easier to test for contamination with more accuracy, sources say. An EPA review of the TCR in 2003, as required under the Safe Drinking Water Act (SDWA), determined that changes in technology and other issues warranted an intent to revise the rule. Consequently, the advisory panel is looking for ways to minimize the requirements of testing for total coliform, while creating regulations that are more accurately protective of drinking water.

The advisory panel appears to be strongly leaning towards recommending that EPA not require repeat monitoring when a drinking water system detects total coliform, although detection of E. coli would likely require additional monitoring. A state source says the panel members “do recognize that an E. coli positive is so unusual” that they could require three repeat tests in that case, “especially if E. coli stays as a MCL and [total coliform] moves to an action level or something else.”

At the recent meeting, several panelists suggested there may not be a need for a total coliform MCL because instances of total coliform in drinking water samples are very common and reveal little about actual dangerous contamination.

Nevertheless, Cynthia Dougherty, director of EPA’s Office of Groundwater and Drinking Water and the agency’s representative on the panel, said at the meeting, the panel “need[s] to be very careful in discussing doing away with” total coliform requirements, because the agency is required to regulate the contaminant under the SDWA. Section 1412(B)(2)(a) of the SDWA lists 83 contaminants, including total coliform, that EPA must regulate.

One possible modification to the TCR discussed at the meeting is increasing baseline monitoring requirements to include testing for both total coliform and E. coli, although panel members have differing views on how frequently monitoring should occur and differences between requirements for large and small systems.

A number of panel members noted that while most systems are required to test for total coliform monthly, many only currently test for the indicator quarterly. Therefore a proposed increase to twice monthly testing, which the panel has discussed, may seem like a large leap, some panelists said.

David Baird, of the National Rural Water Association, raised concerns over possible increased monitoring requirements, saying, “[Total coliform] is not a threat to public health.” Baird agreed with other panelists that two detections of total coliform should no longer trigger public notification and that there should not be a MCL for the indicator.

And Mark LeChevallier of the National Association of Water Companies stressed that the technical workgroup needs to help the panel show the balance between requirements and benefits to the water system.

Several panel members met Baird’s concerns with arguments that the increased monitoring requirements are a trade-off for reduced total coliform compliance problems and no MCL.

In contrast to the worries of the rural representative, a state source at the meeting questioned the need to require so much repeat testing for large systems that are already required to do more than once daily testing, saying that it amounts to repeated and unnecessary requirements. “This has always been a struggle of the total coliform rule,” the source said, speaking of the needs of small systems being applied to large systems.

An additional factor to consider in changing monitoring requirements is that the 2006 groundwater rule (GWR) requires utilities to conduct sanitary surveys, which is an inspection of the entire water system, including the water source, facilities, equipment, operation, and maintenance. The GWR is designed to determine which drinking water systems relying on groundwater supplies are at high risk for fecal contamination and would require corrective action to eliminate viruses or bacteria from the water.

The current TCR allows for less frequent monitoring if a utility has conducted a sanitary survey. For example, a facility may monitor less than five times per month if it does sanitary surveys, and as little as quarterly if it is working from a groundwater system, an EPA source says. Surface water systems are required to test at least once a month.

The group is also currently discussing how to categorize systems and is debating among five methods, which break categories down by number of samples required; number of customers served; non-community systems versus community systems; groundwater versus surface water; and a variety of other criteria.

Patti Fauver, from the Environmental Council of the States (ECOS), noted that the traditional way to divide systems is into community and transient. She said the panel “should stick with that, and then look at population.” But other panel members noted that the new rulemaking is an opportunity to look at population served and the source of the water that is being monitored.

Meanwhile, EPA has convened a panel to follow through on requirements mandated by the Small Business Regulatory Enforcement Fairness Act (SBREFA), which amended the Regulatory Flexibility Act (RFA). The law requires that EPA assess the impact of the upcoming new rule on “small entities.” EPA and other agencies must prepare an initial regulatory flexibility analysis for proposed rules and a final regulatory flexibility analysis for final rules.

The panel began meeting several weeks ago, and is required to complete their work by March 31, an EPA attorney at the meeting said. The SBREFA panel will present the advisory committee with an executive summary of its work at the next meeting, in April. The SBREFA panel has access to the work of the federal advisory committee as it does its work, but it is a one-way, closed EPA panel, as required by law.

The panel will make recommendations to EPA for mitigating impacts of the rule on small entities. The EPA attorney said that the agency has previously defined small entities as water systems serving less than 10,000 people.