



# **Technical Development Document for the Final Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category (40 CFR 432)**

The full document is available at: <http://www.epa.gov/ost/guide/mpp/>

EPA-821-R-04-011



## **SECTION 2**

### **LEGAL AUTHORITY AND BACKGROUND**

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This section presents background information supporting the development of effluent limitations guidelines (ELGs) and standards for the Meat and Poultry Products (MPP) Point Source Category. Section 2.1 presents the legal authority to regulate the MPP industry. Section 2.2 discusses the Clean Water Act (CWA), the Pollution Prevention Act, the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), and prior regulation of the MPP industry. Section 2.3 discusses the scope and applicability of the MPP final rule.

#### **2.1 LEGAL AUTHORITY**

The Agency's promulgating these regulations under the authority of Sections 301, 304, 306, 307, 308, 402, and 501 of the CWA, 33 U.S.C. 1311, 1314, 1316–1318, 1342, and 1361.

#### **2.2 REGULATORY BACKGROUND**

##### **2.2.1 Clean Water Act**

Congress adopted the CWA to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters” (Section 101(a), 33 U.S.C. 1251(a)). To achieve this goal, the act prohibits the discharge of pollutants into navigable waters except in compliance with the statute. The CWA addresses the problem of water pollution on a number of different fronts. It relies primarily, however, on establishing restrictions on the types and amounts of pollutants discharged from various industrial, commercial, and public sources of wastewater.

Direct dischargers (those which discharge effluent directly into navigable waters) must comply with the ELGs and new source performance standards in their National Pollutant Discharge Elimination System (NPDES) permits. Indirect dischargers (those which discharge to publicly owned treatment works) must comply with pretreatment standards. These limitations and standards are established by regulation for categories of industrial dischargers based on the

degree of control that can be achieved using various levels of pollution control technology. The limitations and standards are summarized below.

**2.2.1.1 *Best Practicable Control Technology Currently Available (BPT)—Section 304(b)(1) of the CWA***

EPA defines BPT limitations for discharges of conventional, toxic, and nonconventional pollutants<sup>2</sup> from existing sources. In specifying BPT, EPA considers the cost of achieving effluent reductions in relation to the effluent reduction benefits, age of equipment and facilities, processes employed, process changes required, engineering aspects of the control technologies, non-water quality environmental impacts (including energy requirements), and other factors the EPA Administrator deems appropriate (CWA § 304(b)(1)(B)). Traditionally, EPA establishes BPT effluent limitations based on the average of the best performances of facilities within the industry, grouped to reflect various ages, sizes, processes, or other common characteristics. Where existing performance is uniformly inadequate, however, EPA may establish BPT limitations based on higher levels of control than those currently in place in an industrial category if the Agency determines that the technology is available in another category or subcategory and can be practically applied.

**2.2.1.2 *Best Conventional Pollutant Control Technology (BCT)—Section 304(b)(4) of the CWA***

The 1977 amendments to the CWA established BCT as an additional level of control for discharges of conventional pollutants from existing industrial point sources. In addition to other factors specified in section 304(b)(4)(B), the CWA requires that BCT limitations be established in light of a two-part “cost-reasonableness” test. EPA published a methodology for the development of BCT limitations in July 1986 (51 FR 24974, July 9, 1986).

Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen-demanding pollutants (measured as BOD<sub>5</sub>), total suspended solids (TSS), fecal coliform bacteria, pH, and any additional pollutants defined by the Administrator as conventional. The

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<sup>2</sup> *Conventional pollutants* are biochemical oxygen demand (BOD<sub>5</sub>), total suspended solids (TSS), fecal coliform, pH, and oil and grease; *toxic pollutants* are those pollutants listed by the Administrator under CWA Section 307(a); and *nonconventional pollutants* are those which are neither listed as toxic nor conventional.

Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501).

**2.2.1.3 Best Available Technology Economically Achievable (BAT)—Section 304(b)(2)(B) of the CWA**

In general, BAT ELGs represent the best existing economically achievable performance of direct discharging facilities in the industrial subcategory or category. The factors considered in assessing BAT are the cost of achieving BAT effluent reductions, age of equipment and facilities involved, processes employed, engineering aspects of the control technology, potential process changes, non-water quality environmental impacts (including energy requirements), and other factors that the Administrator deems appropriate. The Agency retains considerable discretion in assigning the weight to be accorded to these factors. An additional statutory factor considered in setting BAT is economic achievability. Generally, the achievability is determined based on the total cost to the industry and the effect of compliance with the BAT limitations on overall industry and subcategory financial conditions. Unlike BPT, BAT limitations may be based on effluent reductions attainable through changes in a facility's processes and operations. Like BPT, where existing performance is uniformly inadequate, BAT limitations may be based on technology transferred from a different subcategory within an industry or from another industrial category. BAT may also be based on process changes or internal controls, even when these technologies are not common industry practice.

**2.2.1.4 New Source Performance Standards (NSPS)—Section 306 of the CWA**

NSPS reflect effluent reductions that are achievable based on the best available demonstrated control technology. New facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the greatest degree of effluent reduction attainable through the application of the best available demonstrated control technology for all pollutants (conventional, nonconventional, and priority pollutants). In establishing NSPS, EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

**2.2.1.5 Pretreatment Standards for Existing Sources (PSES)—Section 307(b) of the CWA**

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of a publicly owned treatment works (POTW). The CWA authorizes EPA to establish pretreatment standards for pollutants that pass through POTWs or interfere with treatment processes or sludge disposal methods. The pretreatment standards are to be technology-based and analogous to the BAT ELGs.

The General Pretreatment Regulations, which establish the framework for implementing categorical pretreatment standards, are at 40 CFR Part 403. These regulations provide a definition of pass-through that addresses local rather than national instances of pass-through, and they establish pretreatment standards that apply to all nondomestic dischargers (52 FR 1586, January 14, 1987).

**2.2.1.6 Pretreatment Standards for New Sources (PSNS)—Section 307(b) of the CWA**

Like PSES, PSNS are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. PSNS are to be issued at the same time as NSPS. New indirect dischargers have the opportunity to incorporate into their facilities the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as those considered in promulgating NSPS.

**2.2.1.7 Best Management Practices (BMPs)**

Sections 304(e), 308(a), 402(a), and 501(a) of the CWA authorize the Administrator to prescribe BMPs as part of ELGs and standards or as part of a permit. Section 304(e) of the CWA authorizes EPA to include BMPs in ELGs for certain toxic or hazardous pollutants for the purpose of controlling “plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage.” Section 402(a)(1) and the NPDES regulations at 40 CFR 122.44(k) also provide for BMPs to control or abate the discharge of pollutants when numeric limitations and standards are infeasible. In addition, Section 402(a)(2), read in concert with Section 501(a), authorizes EPA to prescribe as wide a range of permit conditions as the Administrator deems appropriate to ensure compliance with applicable ELGs and standards and such other

requirements as the Administrator deems appropriate. Table 2-1 summarizes these regulatory levels of control and the pollutants controlled.

**Table 2-1.** Summary of Regulatory Levels of Control

<b>Type of Site Regulated</b>	<b>BPT</b>	<b>BAT</b>	<b>BCT</b>	<b>NSPS</b>	<b>PSES</b>	<b>PSNS</b>
Existing Direct Dischargers	X	X	X			
New Direct Dischargers				X		
Existing Indirect Dischargers					X	
New Indirect Dischargers						X
<b>Type of Pollutant Regulated</b>	<b>BPT</b>	<b>BAT</b>	<b>BCT</b>	<b>NSPS</b>	<b>PSES</b>	<b>PSNS</b>
Priority Toxic Pollutants	X	X		X	X	X
Nonconventional Pollutants	X	X		X	X	X
Conventional Pollutants	X		X	X	X	X

Source: Clean Water Act.

### 2.2.2 Section 304(m) Requirements

Section 304(m) requires EPA to establish schedules for reviewing and revising existing ELGs and standards, as well as promulgating new ELGs and standards. Section 304(m) does not apply to pretreatment standards for indirect dischargers, which EPA promulgates pursuant to Sections 307(b) and 307(c) of the CWA.

On October 30, 1989, Natural Resources Defense Council, Inc., and Public Citizen, Inc., filed an action against EPA in which they alleged, among other things, that EPA had failed to comply with CWA Section 304(m) (see *NRDC v. Browner*, civ. no. 89-2980 (D.D.C.)). The plaintiffs and EPA agreed to a settlement of that action in a consent decree entered on January 31, 1992. The consent decree, which has been modified several times, established a schedule on which EPA is to propose and take final action for 11 point source categories identified by name in the decree and for 8 other point source categories identified only as “new or revised rules”, numbered 5 through 12. EPA selected the MPP industry as the subject for New or Revised Rule 11. Under the decree, as modified, the Administrator was required to sign a proposed rule for the MPP industry by no later than January 30, 2002, and was required to take final action on that proposal by no later than December 31, 2003. The December deadline was later modified by the court, in an unopposed motion, to February 26, 2004.

### **2.2.3 Total Maximum Daily Load (TMDL) Program**

The CWA requires states to identify waters not meeting water quality standards and to develop Total Maximum Daily Loads (TMDLs) for those waters (Section 303(d) of the CWA). A TMDL is essentially a prescription designed to restore the health of the polluted body of water by indicating the amount of pollutants that may be present in the water and still meet water quality standards. More than 25,000 bodies of water across America have been identified as impaired. These waters include more than 300,000 river and shoreline miles and 5 million acres of lakes. EPA estimates that more than 40,000 TMDLs must be established.

A TMDL must be developed for waters that do not attain water quality standards. A TMDL identifies the loading capacity of a waterbody for the applicable pollutant, which is the greatest amount of a pollutant that a water can receive without exceeding water quality standards. The TMDL also identifies the load reduction needed to attain standards and allocates such reductions to point source dischargers (wasteload allocation(s)) and nonpoint sources (load allocation(s)). Thus, the TMDL is actually a “pollution budget” or water quality-based approach that allows the waterbody to achieve water quality standards. Wasteload allocations are reflected in the NPDES permits written for point sources that discharge into the waterbody.

EPA promulgated a final rule in July 2000 to amend and clarify the existing regulations at 40 CFR 130.7 implementing Section 303(d) of the CWA. Those regulations require states to identify waters that are not meeting state water quality standards and to establish TMDLs to restore the quality of those waters. The July 2000 revisions of the rule established specific time frames under which EPA will ensure that TMDLs are completed, and that necessary point and nonpoint source controls are implemented to meet the TMDLs.

The July 2000 rule amended and clarified existing regulations implementing the section of the CWA, that requires states to identify waters that are not meeting applicable water quality standards and to establish TMDLs, to restore the quality of those waters. The July 2000 rule also amended EPA’s NPDES regulations to include provisions addressing the implementation of TMDLs through NPDES permits. Although the July 2000 rule was scheduled to take effect on April 30, 2003, it has never become effective. On March 19, 2003, EPA announced that it was

withdrawing the July 2000 final rule. The 2000 rule was determined to be unworkable based on reasons described by thousands of comments and was challenged in court by some two dozen parties. Regulations that EPA promulgated in 1985 and amended in 1992 remain the regulations in effect for implementing the TMDL Program.

EPA believes that significant changes would need to be made to the July 2000 rule before it could serve as the blueprint for an efficient and effective TMDL Program. Furthermore, EPA needs additional time beyond April 2003 to decide whether and how to revise the currently effective regulations implementing the TMDL Program in a way that will best achieve the goals of the CWA. In the meantime, EPA continues to work steadily on improvements to the TMDL Program to further enhance the quality of the Nation's waters. EPA has been identifying options to improve the TMDL Program, including addressing problems reported by the National Academy of Sciences' National Research Council. The Agency has conducted several public meetings and is reviewing its ongoing implementation of the existing program with a view toward continual improvement and regulatory changes in light of stakeholder input and recommendations from the National Academy of Science's National Research Council. The NRC issued a report with numerous recommendations for improving the rule and program that were not reflected in the July 2000 rule. Ultimately, Congress passed a law prohibiting EPA from implementing the July 2000 rule.

Effluent guidelines are technology-based controls for point source dischargers and are implemented NPDES permits that point sources must obtain prior to discharging pollutants to waters of the United States. EPA is not required to demonstrate the environmental benefits of its technology-based effluent guidelines. It is well established that EPA is not required to consider receiving water quality in setting technology-based ELGs and standards. *Weyerhaeuser v. Costle*, 590 F. 2nd 1011, 1043 (D.C. Cir. 1978), the Senate Committee declared that '[t]he use of any river, lake, stream or ocean as a waste treatment system is unacceptable'—regardless of the measurable impact of the waste on the body of water in question. (Legislative History at 1425 (Senate Report)). The Conference Report states that the Act 'specifically bans pollution dilution as an alternative to treatment (Id. at 284). The purpose of such technology-based limits is to "result in reasonable further progress toward the national goal of eliminating the discharge of all

pollutants.” See NRDC, 863 F.2d at 1433 (9th Cir. 1988). In short, the CWA set up both TMDLs and effluent guidelines as complementary regulatory programs because both are necessary for restoring the quality of the Nation’s waters.

#### **2.2.4 Pollution Prevention Act**

The Pollution Prevention Act of 1990 (42 U.S.C. 13101 et seq., Pub.L. 101-508, November 5, 1990), makes pollution prevention the national policy of the United States. This act identifies an environmental management hierarchy in which pollution “should be prevented or reduced whenever feasible; pollution that cannot be prevented or recycled should be reused in an environmentally safe manner whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or release into the environment should be employed only as a last resort...” (Sec. 6602; 42 U.S.C. 13103).

According to the Pollution Prevention Act, source reduction reduces the generation and release of hazardous substances, pollutants, wastes, contaminants, or residuals at the source, usually within a process. The term *source reduction* “includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control. The term source reduction does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to or necessary for the production of a product or the providing of a service.” In effect, source reduction means reducing the amount of a pollutant that enters a waste stream or that is otherwise released into the environment prior to out-of-process recycling, treatment, or disposal. The Pollution Prevention Act directs the Agency to, among other things, “review regulations of the Agency prior and subsequent to their proposal to determine their effect on source reduction” (Sec. 6604; 42 U.S.C. 13103). This final regulation for the MPP industry was reviewed for its incorporation of pollution prevention as part of the Agency effort. Section 8 outlines pollution prevention practices applicable to the MPP industry.

### **2.2.5 Regulatory Flexibility Act (RFA) as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)**

The RFA generally requires an agency to prepare a regulatory flexibility analysis for 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.

For the purpose of assessing the impact of this rulemaking on small entities, a *small entity* is defined as (1) a small business based on full-time equivalents (FTEs) or annual revenues established by the Small Business Administration (SBA), (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of fewer than 50,000, and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

The definitions of small business for the MPP industry are in the SBA's regulations at 13 CFR 121.201. These size standards were updated effective October 1, 2000. The SBA size standards for the MPP industry (that is, for NAICS codes 311611, 311612, 311613, and 311615) define a "small business" as one with 500 or fewer employees.

EPA estimated that the final rule would regulate up to 51 small businesses that own MPP facilities (i.e., 18 small businesses for which we have detailed surveys and 33 businesses that may potentially be small based on their screener survey response). The scope of the final rule does not include any small governmental jurisdictions or not-for-profit organizations.

Only facilities that exceed the subcategory-specific production thresholds, described further in Section 2.3, are subject to the final rule. Of the small businesses for which EPA had facility-level financial data, EPA projected no facility closures for the final rule. In addition, of the other 33 potentially small entities, two entities are estimated to incur annualized post-tax compliance costs of greater than three percent of revenues; seven are estimated to incur

compliance costs of between 1 and 3 percent of revenues; 24 small entities are estimated to incur compliance costs of less than 1 percent of revenues.

Although the final rule did not have a significant economic impact on a substantial number of small entities, EPA nonetheless tried to reduce the impact of the final rule on small entities. The final rule includes subcategory-specific production thresholds that will allow smaller production facilities to retain their existing limitations or to remain without national effluent limitations. In addition, EPA did not promulgate pretreatment standards; indirect dischargers will remain subject to local limits. Indirect dischargers represent almost 95 percent of the overall MPP industry.

### **2.2.6 Regulatory History of the MPP Industry**

In 1974 EPA promulgated effluent guidelines for meat slaughterhouses and packinghouse facilities (40 CFR 432, Subcategories A through D), and in 1975 EPA promulgated effluent guidelines for meat further processing facilities (40 CFR 432, Subcategories E through I) and independent rendering facilities (40 CFR 432 Subcategory J). The Agency proposed regulations for the poultry industry in 1974, but the rule was never finalized. The following sections describe the current regulatory framework for the MPP industry.

#### **2.2.6.1 Meat Facilities**

The ELGs and standards for the meat products industry were developed and promulgated in the 1970s. As described above, there are existing regulations for the meat slaughtering and processing subcategories and for independent rendering. These regulations were issued in phases and are grouped under 40 CFR Part 432. Although there is no definition of *red meat* or *meat* in the existing MPP effluent guidelines, EPA defined these terms in the technical development documents associated with the prior rules as all animal products from cattle, calves, hogs, sheep and lambs, and from any animal that is not listed under the definition of poultry. EPA is using “meat” as synonymous with the “red meat.” EPA included the same definition in the final regulations. The current regulations for meat processing cover all aspects of producing meat

products from the slaughter of the animal to the production of final consumer products (e.g., cooked, seasoned, or smoked products, such as luncheon meats or hams.)

EPA promulgated BPT, BAT, and NSPS effluent limitations and standards for existing and new meat slaughterhouses and packinghouses on February 28, 1974 (39 FR 7894). EPA established separate limitations and standards for existing and new sources for various types of meat slaughterhouses and packinghouses: Simple Slaughterhouse, Complex Slaughterhouse, Low-Processing Packinghouse, and High-Processing Packinghouse (40 CFR 432, Subcategories A through D).

The Agency promulgated BPT, BAT, and NSPS limitations and standards for existing and new meat further processing subcategories and the independent rendering subcategory on January 3, 1975 (40 FR 902). EPA promulgated no PSNS for this segment of the industry in the January 3, 1975, notice. EPA established separate effluent limitations and standards for existing and new sources for various types of meat further processors and independent renderers: Small Processor, Meat Cutter, Sausage and Luncheon Meats Processor, Ham Processor, Canned Meats Processor, and Independent Renderer (40 CFR 432, Subcategories E through J).

EPA did not establish any pretreatment standards in the 1974 or 1975 regulations.

The BPT and BAT limitations established in the February 28, 1974 notice were the subject of litigation in *American Meat Institute v. EPA*, 526 F.2d 442 (7th Cir. 1975). The Seventh Circuit Court of Appeals reviewed the effluent limitations and remanded selected portions of those regulations. The BPT and BAT regulations remanded by the court were subsequently revised or withdrawn. (See 44 FR 50732, August 29, 1979, and 45 FR 82253, December 15, 1980.)

The regulations for the Independent Renderer subcategory were also the subject of litigation in *National Renderers Association et al., v. EPA et al.*, 541 F. 2d 1281 (8th Cir. 1976). The Court remanded the regulations to the Agency to reconsider the economic impact of the costs associated with these requirements. The BAT limitations for independent renderers were not remanded, but EPA reevaluated those limitations nonetheless. On October 6, 1977 (42 FR

54417), EPA promulgated a final rule that revised the BAT limitations and NSPS limitations for this subcategory. In that final rule, the BAT limitations for ammonia, BOD<sub>5</sub>, and TSS are less stringent than the original BAT limitations; however, the October 6, 1977, NSPS are more stringent than the original NSPS limitations. In the final rule, EPA retained an exclusion for small facilities (less than 75,000 pounds of raw material per day) from BPT, BAT, and NSPS.

### ***2.2.6.2 Poultry Facilities***

EPA proposed BPT, BAT, NSPS, and PSNS limitations and standards for existing and new poultry slaughterers and processors on April 24, 1975 (40 FR 18150). EPA proposed to subcategorize the poultry processing sector into five subcategories—four distinguished by the type of animal or bird being processed and a fifth that applied to further processing. These regulations were never finalized because the 1977 amendments to the Clean Water Act refocused the Agency's attention on establishing ELGs for industry sectors with effluents that contain toxic metals and organics.

## **2.3 SCOPE AND APPLICABILITY OF FINAL REGULATION**

EPA is establishing new or revised ELGs and standards for 9 of the 10 subcategories of the MPP point source category (40 CFR Part 432): Simple Slaughterhouse, Complex Slaughterhouse, Low-Processing Packinghouse, High-Processing Packinghouse, Meat Cutter, Sausage and Luncheon Meats Processor, Ham Processor, Canned Meats Processor, and Renderer. The Agency is establishing no new or revised ELGs or pretreatment standards for the Small Processor category. EPA is also establishing two new MPP subcategories with ELGs and NSPS for the Poultry First Processing (slaughtering) and Further Processing subcategories.

### **2.3.1 Meat Facilities**

#### ***2.3.1.1 Meat Slaughtering and Further Processing Facilities***

In 1974 EPA established regulations that apply to meat slaughterhouses and packinghouses (40 CFR 432, Subcategories A through D). In 1975 EPA established regulations that apply to meat further processing facilities (40 CFR 432, Subcategories E through I). The current regulations for meat cover all aspects of producing meat products from slaughtering the

animal to producing final consumer products (e.g., cooked, seasoned, or smoked products, such as luncheon meats or hams). For Subcategories F, G, H, and I of the existing regulations, EPA established a production rate threshold of greater than 6,000 pounds of finished product per day, below which the regulations do not apply. Subcategory E of the existing regulations applies to small meat further processors that produce less than or equal to 6,000 pounds of finished product per day.

EPA is not changing the existing production rate thresholds in Subcategory E through I of this rule for existing limitations and standards. EPA is establishing new production rate thresholds in Subcategories A through D and F through I for the limitations and standards based on current data collected for this rulemaking (see Section 3). These new production rate thresholds do not affect Subpart E (Small Processors) meat facilities because the new production rate thresholds are all higher than the Subpart E production rate threshold (6,000 pounds of finished product per day).

Based on current MPP survey data, EPA defines small facilities based on their annual production. EPA defines the following facilities, which are currently covered under 40 CFR Part 432, as small:

- Facilities in Subcategories A, B, C, and D that slaughter less than or equal to 50 million pounds (as live weight killed (LWK)) per year.
- All facilities in Subcategory E.
- Facilities in Subcategories F, G, H, and I that produce greater than 6,000 pounds per day but less than or equal to 50 million pounds of finished product per year.
- Facilities in Subcategory J that render less than 10 million pounds per year of raw material.

Most smaller MPP facilities are excluded from the scope of today's proposal for a number of reasons: (1) small MPP facilities as a group discharge less than 3 percent of the conventional pollutants (or 35 million pounds per year), 1 percent of the toxic pollutants (or 1.3

million pounds per year), 4 percent of the nutrients (or 7.5 million pounds per year), and less than 1.5 percent of the pathogens (or  $47 \times 10^9$  colony-forming units per year) as compared to all discharges from the entire MPP industry; (2) EPA determined that only a limited amount of loadings removal would be accomplished by improved treatment at small facilities; and (3) EPA determined that small MPP facilities would discharge a very small portion of the total industry discharge. Therefore, EPA is not revising the current ELGs and standards for small meat facilities. The existing regulations, however, will continue to apply to those facilities.

The existing regulations apply to all sizes of meat direct dischargers (except for renderers processing less than 75,000 pounds of raw material per day). The final revisions to 40 CFR Part 432 apply to meat facilities above the new production-based thresholds and to all poultry facilities that discharge directly to a receiving stream or other waters of the United States.

#### ***2.3.1.2 Independent Rendering Facilities***

In 1975 EPA established regulations (40 CFR Part 432, Subcategory J) that apply to independent renderers, defined as independent or off-site operations that manufacture meat meal, dried animal by-product residues (tankage), animal fats or oils, grease, and tallow, including hide curing by a renderer. The existing regulations establish a size threshold of 75,000 pounds of raw material per day processed. Facilities that process less than this amount are not subject to the existing regulations.

EPA is lowering this production threshold in this rulemaking to include all facilities that render more than 10 million pounds per year of raw material (or approximately 27,000 pounds per day for a facility that operates 365 days a year). EPA is lowering this production threshold based on data collected for this rulemaking. See *Economic and Environmental Benefits Analysis of the Final Meat and Poultry Products Rule* (EPA-821-R-04-010) for a description of EPA's reasons for setting production thresholds and exempting most small MPP facilities (including all small rendering facilities that render less than 10 million pounds per year of raw material) from the revisions to 40 CFR Part 432. Subpart J applies to the rendering of any meat or poultry raw material. When rendering is done in conjunction with a meat slaughterhouse or packinghouse, the

rendering wastewater generated is regulated under the limitations for the appropriate meat slaughtering or packinghouse subcategory (the limitations under Subparts A, B, C, or D).

### **2.3.2 Poultry Slaughtering and Further Processing Facilities**

EPA is establishing ELGs and NSPS for the new Poultry First Processing (slaughtering) and Further Processing subcategories. Poultry includes broilers, other young chickens, hens, fowl, mature chickens, turkeys, capons, geese, ducks, and small game such as quail, pheasants, and rabbits.

EPA proposed regulations for this segment of the MPP industry in 1975 but did not finalize them. EPA has reanalyzed this segment of the MPP industry and is establishing BPT, BCT, and BAT limitations and standards for existing facilities and NSPS limitations for new direct dischargers.

As noted above, EPA is creating two new subcategories that would apply to poultry processing facilities. The first is the Poultry First Processing subcategory, which includes the slaughtering and evisceration of the bird or animal and dressing the carcass for shipment either whole or in parts, such as legs, quarters, breasts, and boneless pieces. These facilities are commonly known as “ice pack facilities.” The second new poultry subcategory is the Poultry Further Processing subcategory. It covers additional preparation of the meat, including further cutting, cooking, seasoning, and smoking to produce ready-to-be-eaten or reheated servings. The additions to 40 CFR Part 432 for poultry being proposed apply to facilities that discharge directly to waters of the United States.

EPA is setting less stringent ELGs for direct dischargers slaughtering up to 100 million pounds of poultry per year and for further processors producing up to 7 million pounds of poultry per year. See *Economic and Environmental Benefits Analysis of the Final Meat and Poultry Products Rule* (EPA-821-R-04-010) for a description of EPA’s reasons for setting production thresholds. The treatment options promulgated for larger poultry slaughtering and further processing facilities are economically unachievable for small poultry slaughtering and further processing facilities. Rendering performed in conjunction with a poultry first processing facility

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would be subject to the appropriate regulations for the Poultry First Processing subcategory (Subpart K).