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Effluent Guidelines/Clean Water Act: U.S. Environmental Protection Agency Public Notices Agreement to Initiate Rulemaking Addressing Meat and Poultry Products Category

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The United States Environmental Protection Agency (“EPA”) provided notice of a proposed Consent Decree in the March 1st Federal Register resolving a citizen suit complaint filed by environmental organization addressing Clean Water Act effluent limit guidelines for the Meat and Poultry Products (“MPP”) industrial category. See 88 Fed. Reg. No. 12930.

The following groups had filed the citizen suit action against EPA alleging that it failed to perform mandatory Clean Water Act duties associated with the MPP industrial category:

- Earthjustice
- Environmental Integrity Project
- Cape Fear River Watch
- Rural Empowerment Association for Community Health
- Waterkeepers Chesapeake
- Animal Legal Defense Fund
- Center for Biological Diversity
- Environment America
- Food and Water Watch
- Humane Society of the United States
- Waterkeeper Alliance

The MPP category includes slaughterhouses and animal rendering facilities.

Section 301(b) of the Clean Water Act authorizes EPA to promulgate national categorical standards or limits to restrict discharges of specific pollutants on an industry-by-industry basis. These effluent limits are incorporated into a point source discharger’s National Pollutant Discharge Elimination System permit as a baseline minimum requirement.

Clean Water Act effluent limits are derived from research regarding pollution control technology used in the industry. The analysis will include the degree of reduction of the pollutant that can be achieved through the use of various levels of technology. The applicable standard is dictated by the kind of

pollutant discharged (i.e., toxic, conventional, or non-conventional) and whether a new or existing point source is involved.

EPA's development of categorical limits is an ongoing process. The agency continues to promulgate categorical standards that have not been addressed. Further, and as relevant in the MPP litigation, categorical standards are also required to be addressed by EPA to determine if revisions are warranted. The motivation for a change to an existing standard will often be the need to incorporate evolving technological developments.

MPP's facilities discharge various types of pollutants such as nitrogen, phosphorus, and others.

The environmental groups had argued in the litigation that EPA had not revised the effluent limit guidelines for this category since at least 2004.

Deadlines set by the proposed Consent Decree include:

- EPA is required by December 13, 2023, to sign and provide notification of the proposed rulemaking pertaining to revisions to the MPP effluent limitation guidelines
- On June 30, 2024, and every 180 days thereafter until EPA undertakes a final action, the federal agency is required to file with the Court a report on the status of the rulemaking and progress toward completion
- By August 31, 2025, EPA is required to take final actions on revisions to the MPP effluent limit guidelines and a publication of the MPP treatment standards

EPA is taking public comments on the proposed Consent Decree until March 31, 2023.

A copy of the Federal Register Notice can be downloaded [here](#).