

**IV.B-2.—AVERAGE TARGET EFFLUENT CONCENTRATIONS FOR COSTS AND LOADINGS FOR SUBCATEGORIES K AND L BY
OPTION
[mg/L]**

	Option 2	Option 2+P	Option 2.5	Option 2.5 + P	Option 4
BOD	8.80	8.80	8.80	8.80	7.00
TSS	10.21	10.21	10.21	10.21	5.05
COD	29.60	29.60	29.60	29.60	17.25
CBOD	6.00	6.00	6.00	6.00	6.00
Ammonia as Nitrogen	1.00	1.00	1.00	1.00	0.17
Total Nitrogen	N/A	N/A	32.40	32.40	1.86
Total Phosphorus	N/A	4.20	N/A	4.20	2.27
Nitrate/Nitrite	N/A	N/A	20.87	20.87	0.52
TKN	4.97	4.97	4.97	4.97	1.34
O&G (as HEM)	5.90	5.90	5.90	5.90	5.39

Note: See Section IV.A for a description of the technology options.

N/A: Not applicable because technology option is not designed to control the pollutant parameter.

V. Changes Considered to Applicability, Definitions, and Regulated Pollutants

A. Changes Considered to Applicability and Definitions

EPA received comment on the size thresholds in the proposed rule, as well as a request from permitting authorities to clarify the overlap between the Concentrated Animal Feeding Operations (CAFO) rule and the MPP rule. This section discusses changes EPA is considering for the final rule including: (1) Changes in the production based thresholds; and (2) clarification on the distinction between CAFOs and animal holding areas in the MPP industry.

EPA based the proposed production thresholds and its definition of “small” facility on available screener survey data (67 FR 8587). As discussed in Section II.E of today’s notice, EPA is including additional screener surveys as well as detailed surveys in its analysis for this NODA. If EPA determines that the economic achievability, cost-effectiveness, or environmental benefits of the rule can be enhanced by revising the production-based thresholds, EPA will consider revising the thresholds for the final rule. EPA notes that although one commenter requested a higher production threshold for poultry facilities (e.g., 100 million versus 10 million pounds per year) for determining applicability of the effluent guidelines limitations and standards, they did not provide any information that would serve as a basis for EPA to revise the proposed production based thresholds.

Please note that, in error, EPA also solicited comment on its use of 100 employees at the facility level for analyzing economic impacts on small businesses. In fact, EPA used the SBA size standard of 500 employees at the company level to perform its small

business impact analyses for both the proposal and today’s notice and will continue to do so for the final rule.

Subsequent to promulgating the final CAFO rule earlier this year (68 FR 7176; February 12, 2003), EPA received a request from permitting authorities to clarify the distinction between animal feeding operations (AFOs) and animal holding areas at MPP facilities to avoid any ambiguity about which permit requirements and effluent guidelines apply to discharges from the MPP animal holding areas. EPA’s NPDES regulations at 40 CFR part 122.23(b)(1) define an AFO as “a lot or facility (other than an aquatic animal production facility) where the following conditions are met: (1) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of more than 45 days or more in any 12-month period, and (2) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.” All meat and poultry slaughtering facilities have live animal receiving areas. Although the animals at MPPs are not typically kept or maintained for more than a day, animals are present for more than 45 days in a 12 month period. Therefore, the AFO definition could be construed to include animal holding areas at meat and poultry slaughtering facilities.

EPA does not interpret the AFO definition to include animal holding areas at meat and poultry slaughtering facilities. Furthermore, the CAFO rules do not establish requirements for MPP animal holding areas. Meat slaughtering and processing operations currently fall under the Meat Products Point Source Category at part 432. The MPP rule, as proposed, would add requirements to part 432 for poultry processing plants. Wastes from animal holding areas at

MPP facilities were identified during the original effluent guidelines rulemakings in the 1970s as being part of the MPP facilities’ process wastewater and the requirements at part 432 apply to these wastes. NPDES permits have historically addressed the animal holding areas at processing facilities as part of the meat processing facility rather than as an animal feeding operation. Given the effectiveness of this approach, EPA does not intend to change the applicability of the MPP rules to animal holding areas. Rather this Notice is clarifying that animal holding areas at meat and poultry slaughtering facilities are still subject to the requirements of the MPP rule codified at 40 CFR part 432 and are not subject to the NPDES CAFO requirements codified at 40 CFR part 122 or the CAFO effluent guidelines codified at 40 CFR part 412.

To avoid potential confusion, EPA may include regulatory language in the applicability section of the MPP rule clarifying that animal holding areas at meat and poultry slaughtering facilities are subject to the requirements codified at part 432 and not the CAFO requirements at parts 122 or 412, and solicits comment on this aspect of the applicability language for part 432.

B. Changes Considered to the Pollutants Selected for Regulation

Based on comments on the proposed rule, EPA is considering a revision to the pollutants it proposed for regulation (i.e., Ammonia (as N), BOD₅, COD, Fecal Coliforms, O&G (as HEM), Total Nitrogen, Total Phosphorus, and TSS). EPA notes that the selection of pollutants proposed for regulation was subcategory-specific and size-specific and not all pollutants were proposed for each subcategory, facility size, or limitation type (e.g., BPT, BAT). (See rule text of the proposed rule for a