

reviews existing limitations and standards for direct dischargers. In the course of this review EPA also reviews indirect dischargers in an industrial point source category when the industrial point source category is composed of both direct and indirect dischargers. For industrial point source categories that are entirely or almost entirely composed of indirect dischargers, EPA reviews, revises, and establishes pretreatment standards under a separate planning process, which is described in section 304(g) of the CWA.

Certain elements of EPA's current work on effluent guidelines continue to be governed by a Consent Decree. On October 30, 1989, the 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). 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 for proposal and final action for eleven point source categories identified by name and for

eight other point source categories identified only as new or revised rules. The Decree also established deadlines for EPA to complete studies of eight identified and three unidentified point source categories and required EPA to consider the results of those studies when identifying point source categories for possible new or revised effluent guidelines.

The last date for EPA action under the modified Decree is June 30, 2004. Table IV-1 identifies the new or revised effluent guidelines currently under development under the Decree and the schedules for final action.

TABLE IV-1.—EFFLUENT GUIDELINES GOVERNED BY CURRENT CONSENT DECREE

Category <sup>1</sup> (EPA web sites)	Federal Register proposal citation (date)	Final action date
Meat Products ( <a href="http://epa.gov/guide/mpp/">http://epa.gov/guide/mpp/</a> ) .....	67 FR 8581 (Feb. 25, 2002) ...	02/26/04
Construction and Development ( <a href="http://epa.gov/guide/construction/">http://epa.gov/guide/construction/</a> ) .....	67 FR 42644 (June 24, 2002)	03/31/04
Aquatic Animal Production ( <a href="http://epa.gov/guide/aquaculture/">http://epa.gov/guide/aquaculture/</a> ) .....	67 FR 57872 (Sept. 12, 2002)	06/30/04

<sup>1</sup> **Note:** EPA has proposed to add parts 450 and 451 to title 40 of the Code of Federal Regulations. EPA has proposed to change the title of 40 CFR 432 from "Meat Products" to "Meat and Poultry Products."

The preliminary Effluent Guidelines Program Plan for 2004/2005 ("304(m) Plan" or "Plan") is a key step in developing the final plan. It represents a considerable effort by the Agency to implement a planning process that considers the hazards or risks to human health and the environment from industrial point source categories. It reflects a lengthy outreach effort to involve stakeholders in the planning process. It also reflects EPA's initial screening-level estimates of hazard or risk, which EPA examined for the purpose of identifying industrial point source categories. EPA will use these estimates to decide if new or revised guidelines are appropriate. In preparing this preliminary plan, EPA also considered the structure of specific industries and the availability of economically achievable technology that will reduce the identified hazard or risk. EPA will complete these analyses prior to publishing the final Effluent Guidelines Program Plan for 2004/2005.

#### V. What Is the Purpose of Today's Federal Register Notice?

Today's **Federal Register** notice has three purposes. First, it presents the results of EPA's annual review of the effluent guidelines that EPA has promulgated under CWA section 304(b). Second, it solicits public comment on the preliminary effluent guidelines plan as required by section 304(m)(2) of the CWA. Third, it describes and solicits comment on the analytical framework that EPA has employed to date in

performing the annual review for 2003 and in developing today's preliminary Effluent Guidelines Program Plan. EPA articulated an early form of this evolving analytical framework in the draft Strategy for National Clean Water Industrial Regulations ("draft Strategy"), which EPA hopes to finalize concurrently with the Effluent Guidelines Program Plan in 2004.

#### VI. 2003 Annual Review of Effluent Guidelines That EPA Has Promulgated Under CWA Section 304(b)

As noted in section IV, the CWA requires EPA to publish a plan every two years that establishes a schedule for the annual review of the effluent guidelines that EPA has promulgated under CWA section 304(b). In today's **Federal Register** notice, EPA proposes a schedule whereby EPA would perform its annual review under CWA section 304(m)(1)(A) in concert with its efforts to identify industrial categories for new or revised effluent guidelines. In other words, in odd-numbered years, EPA would coordinate its annual review with the preliminary Effluent Guidelines Program Plan that EPA must publish for public review and comment under CWA section 304(m)(2). In even-numbered years, EPA would coordinate its annual review with its publication of the final plan.

EPA proposes this schedule for several reasons. First, the annual review is inextricably linked to the planning effort, because the results of each annual review inform the content of the

proposed and final Effluent Guidelines Program Plans. Second, publishing the results of each annual review (including a description of the review process employed) at the same time EPA publishes proposed and final plans makes both processes more transparent. Third, by requiring EPA to review all existing effluent guidelines each year, we assume that Congress intended that each successive review would build upon the results of earlier reviews. Therefore, by publishing the results of the 2003 annual review here, EPA hopes to receive data and information that will inform its review for 2004 and the future. In addition, EPA hopes that publishing the 2003 annual review will prompt comments not only on the content of that review but also on the processes and factors we used in performing it. EPA may decide to change that process as a result of comments on today's notice.

As part of its 2003 annual review, EPA also reviewed the NSPS promulgated by EPA under CWA section 306 and pretreatment standards promulgated under CWA sections 307(b) and 307(c), although it was not required under CWA section 304(m)(1)(A) to do so.