

# Memorandum

From: Carey A. Johnston, P.E.  
USEPA/OW/OST  
ph: (202) 566 1014  
[johnston.carey@epa.gov](mailto:johnston.carey@epa.gov)

To: Public Record for the 2006 Effluent Guidelines Program Plan  
EPA Docket Number OW-2004-0032 ([www.epa.gov/edockets/](http://www.epa.gov/edockets/))

Date: September 29, 2005

Re: Minutes Preliminary Effluent Guidelines Program Plan Public Meeting (September 20, 2005)

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## Overview

EPA held a public meeting to review the preliminary 2006 Effluent Guidelines Program Plan (“2006 Plan”) on 20 September 2005 at EPA Headquarters, Washington DC. The meeting started at 9:00 AM. The purpose of the public meeting was to: (1) present the Agency’s 2005 annual review of existing effluent guidelines and pretreatment standards under Clean Water Act (CWA) sections 301(d), 304(b), 307(b), and 304(g); (2) present the Agency’s evaluation of categories of indirect dischargers without categorical pretreatment standards to identify potential new categories for pretreatment standards under CWA section 307(b); (3) present the preliminary 2006 Plan under CWA section 304(m); (4) review the industry sectors identified for further investigation; and (5) identify information collection activities and analyses EPA anticipates completing for the Agency’s 2006 review of effluent guidelines and pretreatment standards and the final Plan.

As noticed in the preliminary 2006 Plan, EPA did not transcribe the public meeting for the docket supporting the 2006 Plan. However, EPA did record the following meeting minutes for the docket. The list of meeting attendees is presented in Attachment A. The EPA slides presented during the meeting are also included in the docket supporting the 2006 Plan.

## **Introduction**

Mr. Ephraim S. King, Director of the EPA's Office of Science and Technology began the meeting. He reminded attendees that effluent guidelines are the backbone of the industrial wastewater permitting program. Mr. King noted that the preliminary 2006 Plan was published in the Federal Register on 29 August 2005 (70 FR 51042) and that the final 2006 Plan will likely be published in September 2006. The final plan will present what EPA knows about industrial categorical discharges, and based on that information, whether EPA should move ahead with an effluent guidelines rulemaking for any industrial categories. Mr. King emphasized that EPA has made no final decisions at this point. He also emphasized that the effluent guidelines planning process is interactive and iterative.

Mr. King listed the goals of the meeting:

1. Help everyone understand the guidelines review process.
2. Clarify the information that EPA needs.
3. Hear from the public about how EPA should clarify its conclusions.

Mr. King noted that the meeting was not a forum for accepting public comments. Comments should be submitted to EPA following the instructions in the Federal Register Notice. Comments will be accepted through October 28, 2005.

Mr. King recalled that the 1972 Clean Water Act initiated a two-part approach for controlling discharges to surface waters. The first part of the approach is the effluent guidelines program, which was established to identify the pollution control approaches industry can employ that are technically and economically feasible. The second part of the approach is water quality standards. The Clean Water act requires EPA to annually review the effluent limitations guidelines and standards it has established. In the annual review, EPA investigates, for example, if there is any new science that would support new pollution control approaches. The Clean Water act also requires EPA to determine if there are any categories discharging non-trivial

amounts of toxic of non-conventional pollutants for which EPA has not established effluent limitations guidelines.

### **Overview of Preliminary 2006 Effluent Guidelines Program Plan**

Mr. Carey A. Johnston, Project Lead for the 2005 and 2006 annual review and 2006 Effluent Guidelines Program Plan, presented the following information:

- Overview of effluent guidelines and standards (ELGs) and the planning process;
- Discussion of the EPA's 2005 annual review of ELGs and industrial categories without ELGs; and
- Overview of the industry sectors EPA identified for detailed studies in the 2006 annual review; and
- Additional data needs.

The information Mr. Johnston discussed is documented in a slide presentation, *Public Meeting for the 2006 Preliminary Effluent Guidelines Program Plan*, which is in the docket supporting the 2006 Plan.

### **EPA Voluntary Partnership Programs**

After this presentation Mr. Johnston introduced two EPA staff that oversee two EPA voluntary partnership programs: (1) Daniel J. Fiorino, Performance Track ([www.epa.gov/performancetrack/](http://www.epa.gov/performancetrack/)); and (2) Clive Davies, Design for the Environment ([www.epa.gov/dfe/](http://www.epa.gov/dfe/)). Mr. Johnston noted that EPA's Effluent Guidelines Program is investigating ways to promote voluntary initiatives to reduce wastewater pollution. EPA considers as part of the effluent guidelines review process whether any point source categories have demonstrated continual improvement through voluntary effluent reductions. In comments

on the draft *Strategy for National Clean Water Industrial Regulations* (“draft Strategy”),<sup>1</sup> stakeholders suggested that voluntary efforts should be encouraged and rewarded, especially where those voluntary reductions have been widely adopted within an industry and have led to significant reductions in pollutant discharges. EPA agrees that voluntary significant reductions of toxic and non-conventional pollution widely adopted by facilities in a category should be a factor in determining whether to revise a set of existing effluent guidelines.

Mr. Daniel J. Fiorino, national director of Performance Track described EPA’s Performance Track program, criteria for membership, and reasons for joining the program. The information Mr. Fiorino discussed is documented in a slide presentation, *EPA’s Performance Track: An Opportunity for Leadership*, which is in the docket supporting the 2006 Plan. Mr. Clive Davies, Chief of the Design for the Environment (DfE) Branch, Office of Pollution Prevention and Toxics, described the DfE program. He emphasized the collaborative nature of the program, explaining that DfE pursues projects to meet industry needs. The information Mr. Davies discussed is documented in a slide presentation, *Design for the Environment Program*, which is in the docket supporting the 2006 Plan.

### **Questions and Answers**

During and after Mr. Johnston’s presentation, he answered questions from the audience which are presented below. After the question and answer period the meeting ended at approximately 11:30 AM.

*Jack Waggener, URS Corporation:* Can you provide more information about how the toxic weighting factors (TWFs) were calculated and used in the preliminary 2006 Plan?

*Carey Johnston:* EPA has improved the documentation of the TWF calculations. The approach is outlined in the *Draft Toxic Weighting Factor Development in Support of CWA 304(m)*

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<sup>1</sup>U.S. EPA, “Draft Strategy for National Clean Water Industrial Regulations,” EPA-821-R-02-025, <http://epa.gov/guide/strategy/>, November 2002.

*Planning Process* that may be downloaded from EPA's website:

[http://www.epa.gov/waterscience/guide/304m/toxic\\_weighting.pdf](http://www.epa.gov/waterscience/guide/304m/toxic_weighting.pdf). In addition, the docket supporting the preliminary 2006 plan (Docket No. OW-2004-0032) includes a spreadsheet that presents the data used to calculate the TWF for each chemical. See OW-2004-0032-0985.

*Jack Waggener, URS Corporation:* There are problems with data reported to TRI. For some chemicals, TRI data reported by facilities doesn't represent what is ultimately discharged from the POTWs. For example, facilities report that they discharge sodium nitrite, but this chemical oxidizes readily in sewer systems to nitrate.

*Carey Johnston:* Sodium nitrite is one of the pollutants that EPA is focusing on, reviewing both its TWF and how it is removed in wastewater treatment.

*Jessica Marlies, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP:* I understand that EPA is transitioning from E-Docket to the Federal Docket Management System (FDMS) 26 September 2005. What are your plans if there is a glitch in this transition?

*Carey Johnston:* If there is a glitch that impacts the public's ability to review the docket and/or to submit comments, then EPA would consider extending the comment period. (**Note:** after the public meeting EPA decided to delay the transition to FDMS until October 31, 2005. Thus, the transition will not impact review of the docket and/or to submission of comments.)

*Jessica Marlies, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP:* If EPA selects an industry for rulemaking, is it required to evaluate both pretreatment standards for indirect dischargers and effluent guidelines for direct dischargers?

*Carey Johnston:* EPA generally does not have enough information as a result of its effluent guidelines planning to fully understand all differences between direct and indirect dischargers. Consequently, EPA generally evaluates both direct and indirect dischargers during an effluent guidelines rulemaking. EPA promulgates effluent guidelines and pretreatment standards only after a full consideration of statutory factors.

*David Dunlap, Uniform and Textile Service Association:* If EPA selects a category for potential development or revision of effluent limitations guidelines but determines in its final action that effluent guidelines are not economically achievable, can EPA decide not to promulgate regulations?

*Carey Johnston:* EPA must support any decision to promulgate effluent guidelines and pretreatment standards and part of that support is a showing that limitations and standards based on Best Available Technology (BAT) are economically achievable.

*Steve Curl, R.J. Reynolds:* Could you explain how EPA determines pass-through?

*Carey Johnston:* EPA uses data from its 50 POTW study. This study collected paired influent and effluent pollutant concentrations which EPA used to calculate percent removals. When EPA is developing regulations for categories with both direct and indirect dischargers, it has identified “Best Available Technologies” (BAT) that form the basis of the regulations for direct dischargers. EPA compares the percent removals that BAT can achieve for each regulated pollutant to the percent removal for that pollutant from the 50 POTW study. If the BAT can remove more of the pollutant than the POTW, EPA concludes that the pollutant passes through POTWs and pretreatment standards may be required. EPA is presently conducting additional study of POTW performance. This study includes pollutants that were not investigated in the 50 POTW study, such as nicotine. For the tobacco industry detailed study, EPA will request pollutant removal data from the POTWs receiving tobacco plant wastewaters.

*Rees Madsen, BP:* What were the comments related to the applicability of the Steam Electric point source category and how does the Agency use these comments in its decision-making.

*Carey Johnston:* The Agency is committed to involving stakeholder at the beginning of the effluent guidelines planning process. Consequently, EPA solicited public comment on the 2005 effluent guidelines review when it published the final 2004 Plan in September 2004. One of these stakeholder comments was about the applicability of the Steam Electric point source category and whether it should be expanded to other wastewaters. See OW-2004-0032-0985. EPA invites comment on this issue and will follow-up on these comments prior to the final 2006 Plan.

*Jerry Schwartz, American Forest & Paper Association:* Could you provide us with the stakeholder concerns?

*Carey Johnston:* Comments received on the 2005 effluent guidelines review are included in the docket for the 2006 Plan. The docket also includes a memorandum that summarizes the issues raised in comment. See OW-2004-0032-0020.

*Jessica Marlies, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP:* Could you explain how the data EPA is collecting for the tobacco detailed study will help determine if it will develop pretreatment standards?

*Carey Johnston:* This summer, EPA visited six tobacco products plants, two that discharge wastewater directly and four that discharge to POTWs. EPA collected samples of treated wastewater at two plants and untreated wastewater at all six plants.

*Jan Matuszko:* If EPA decides to start a rulemaking for an industry, EPA will evaluate the need regulations for both direct dischargers and indirect dischargers and decide whether regulations are warranted based on the results of the evaluation.

*Rees Madsen, BP:* How does EPA account for participation in the voluntary programs, like Performance Track, as it develops its Effluent Guidelines Program Plans? Have voluntary programs have ever affected effluent guidelines program plans?

*Carey Johnston:* The 2004 Plan was the first time EPA applied the factors from the draft *Strategy* into effluent guidelines planning. EPA doesn't have specific examples how participation in the voluntary programs has prompted EPA to delay or defer a rulemaking. Some effluent guidelines rulemakings incorporate voluntary programs and alternate compliance options.

*Jan Goodwin, Chief Technology and Statistics Branch, EPA/EAD:* When EPA decided not to go forward with categorical pretreatment standards for the industrial laundries industry, it did so, in part, because the industry was just starting a voluntary waste reduction program. EPA notes that this program has been very successful in reducing wastewater pollutant discharges from industrial laundries.

*Jack Waggener, URS:* Can you explain what preliminary category review is?

*Carey Johnston:* Preliminary category review is similar to the detailed studies, except less detailed. EPA is following-up on additional data needs mentioned in the preliminary category review report that is available on the EPA website.

[http://www.epa.gov/waterscience/guide/304m/prioritized\\_categories\\_combined.pdf](http://www.epa.gov/waterscience/guide/304m/prioritized_categories_combined.pdf)



**Attachement A: Attendance List Preliminary Effluent Guidelines Program Plan Public Meeting, September 20, 2005**

<b>Name</b>	<b>Organization</b>	<b>Address</b>	<b>City, State, Zip</b>	<b>E-Mail</b>
Donna Hill	Southern Company Services, Inc	600 North 18 <sup>th</sup> Street PO Box 2641	Birmingham, AL 35291	<a href="mailto:dbhill@southernco.com">dbhill@southernco.com</a>
Steve Curl	R.J. Reynolds	950 Reynolds Blvd.	Winston-Salem, NC 27102	<a href="mailto:curls@rjrt.com">curls@rjrt.com</a>
Charley Bridges	Philip Morris USA	POBOX 26603	Richmond, VA 23261	<a href="mailto:Charles.T.Bridges@PMUSA.Com">Charles.T.Bridges@PMUSA.Com</a>
Rees Madsen	BP	2815 Indianapolis Blvd	Whiting, IN	<a href="mailto:Madsenrc@bp.com">Madsenrc@bp.com</a>
Stephanie Meadows	API	1220 L Street NW	Washington, DC 20005	<a href="mailto:meadows@api.org">meadows@api.org</a>
Greg Wall	Keller and Heckman	1001 G St. NW	Washington, DC 20001	<a href="mailto:wall@khlaw.com">wall@khlaw.com</a>
Jerry Schwartz	AF&PA	1111 19 <sup>th</sup> St NW, #800	Washington, DC 20036	<a href="mailto:jerry_schwartz@afandpa.org">jerry_schwartz@afandpa.org</a>
David Dunlap	UTSA	1300 N. 17 <sup>th</sup> St., Suite 250	Arlington, VA 22209	<a href="mailto:ddunlap@usta.com">ddunlap@usta.com</a>
Jessica Marlies	Brooks Pierce Law	230 N. Elm St.	Greensboro, NC	<a href="mailto:jmarlies@brookspierce.com">jmarlies@brookspierce.com</a>
Victoria Lovelace	Lorillard Tobacco	2525 E. Market	Greensboro, NC 27401	<a href="mailto:vlovelace@lortobco.com">vlovelace@lortobco.com</a>
Paul Wiegand	NCASI	Box 458	Research Triangle Park, NC	<a href="mailto:p.wiegand@ncasi.org">p.wiegand@ncasi.org</a>
Jeff Gunnulfsen	SOCMA	1850 M Street NW, Suite 700	Washington, DC 20036	<a href="mailto:gunulfsenj@socma.com">gunulfsenj@socma.com</a>
Liz Aldridge	UWAG	951 E. Byrd St	Richmond VA 23219	<a href="mailto:ealdridge@hunton.com">ealdridge@hunton.com</a>
Jack Waggener	URS Corp.	1000 Corporate Centre Dr. Suite 250	Brentwood, TN 37027	<a href="mailto:jack.waggener@urs.com">jack.waggener@urs.com</a>
Susie Bruninga	NACWA	1816 Jefferson Pl. NW	Washington, DC 20036	<a href="mailto:sbruninga@nacwa.org">sbruninga@nacwa.org</a>
Erica Brown	Assn of Metropolitan Water Agencies	16201 J St. NW, Suite 500	Washington, DC 20006	<a href="mailto:brown@amwa.net">brown@amwa.net</a>