

**U.S. Environmental Protection Agency**

**Effluent Guidelines Task Force  
Meeting Summary**

**May 24-25, 2000  
Washington, DC**

## **United States Environmental Protection Agency**

### **Effluent Guidelines Task Force May 24-25, 2000 Meeting**

#### **Wednesday, May 24, 2000**

The meeting began at 9:00 am and was chaired by Margaret Nellor, Sanitation District of Los Angeles County.

#### **I. Introductory Remarks**

Ms. Nellor stated that the principal purpose of the meeting is to discuss the future role of the Task Force. Sheila Frace, Director, EPA Engineering and Analysis Division, said that EPA will also discuss the pending Proposed Effluent Guidelines Plan for 2000 and the Effluent Guidelines Consent Decree (*Natural Resources Defense Council v. EPA*).

#### **II. NACEPT Review of Task Force Recommendations**

The Task Force submitted a set of recommendations on the Effluent Guidelines Program to NACEPT on March 29, 2000 [Recommendations on Streamlining the Effluent Guidelines Development Process, Report No. 5.] One NACEPT member, James R. Banks, submitted comments on three topics.

##### 1. Recommendation 1.2: Utilize Existing POTW Information (Approved 1/28/97)

- There should be some restriction regarding the timeliness of POTW data to take into account performance improvements and pollution prevention efforts at upstream facilities. Data over five years old may not be meaningful.

##### 2. Recommendation 4.2: Development of "Conceptual" Effluent Guidelines (Approved 9/21/99)

- It would be helpful to have some initial industry input when the "conceptual" effluent guideline is being developed.

##### 3. Appendix A, Section III.A.: Testing the UTS and Presumptive Rule Concepts

- Since the EPA recognizes that all facilities in an industry sector will not be able to meet a UTS, there should be some initial relief for those facilities which cannot meet this to avoid enforcement action.

The Task Force considered the first comment but decided that the recommendation should remain as written. The members asserted that in some cases older data may be useful and relevant to a rulemaking. For a specific rulemaking, EPA should determine what data are appropriate for a particular industry.

In considering the second comment, the Task Force observed that there appears to be a misunderstanding about the recommended method of obtaining early stakeholder input through development of a "conceptual" effluent guideline. The intent of a conceptual guideline is to encourage early input from industry. It is supposed to be EPA's first draft of a regulatory document, and would be provided to stakeholders to stimulate discussion and obtain comment before a proposed rule is developed in detail. If EPA was to request comments before this document is prepared, there would be little background information available to the public and the Task Force felt that such a process would not be productive. The members decided that no revisions to recommendation 4.2 were warranted.

Regarding the third comment, the Task Force noted that they did not recommend that a UTS be developed in rule because of legal requirements to consider industry-specific factors, but that a UTS-like approach may be useful for identifying candidate model treatment technologies to include in a conceptual effluent guideline. Used in this way, there are no enforcement ramifications because the final rule would not include a UTS. It would be industry-specific as required by statute.

Although the Task Force elected not to change its report, it expressed appreciation to NACEPT for its review and comments.

### **III. Old Business**

The members inquired about the status of EPA's response to previous Task Force recommendations. EPA had prepared a written response and discussed the document at meetings on September 21, 1999 and January 5, 2000. Ms. Frace reported that EPA had received comments at the January 2000 meeting on the responses from Nancy Stoner, NRDC and Lori Sundstrom, City of Phoenix. EPA will send copies of the NRDC comments to the Task Force. The members and EPA staff then proceeded to discuss some of the Agency's responses.

Some members observed that while EPA's responses to many individual recommendations were informative, the Task Force did not get an overall sense of how EPA had changed the way it developed effluent guidelines and what effect the Task Force had on this process. Lori

Sundstrom, City of Phoenix, had submitted comments in this regard. Ms. Frace promised to review Ms. Stoner's and Ms. Sundstrom's comments, finalize EPA's response document, and report back to the Task Force.

#### **IV. Discussion with Geoffrey Grubbs, Director, Office of Science and Technology**

Mr. Grubbs briefly described some of the ongoing activities in OST including the Effluent Guidelines Program. He stated that within the Agency, the Program has been viewed as making significant changes in the past several years, such as reducing the average time to complete a rulemaking action. He credited the Task Force with contributing to the improvements in the Program. He discussed his interest in having the Program move beyond fulfilling the basic requirements in the Consent Decree, and that the Task Force should be involved in discussions on the Effluent Guidelines planning process.

#### **V. Workgroup Report on Stakeholder Involvement**

Glenn Shaul, EPA Office of Research & Development, chaired a workgroup on reviewing EAD's processes for stakeholder involvement. During 1998-99, the group looked at activities associated with two newly-initiated rules; Iron & Steel, and Feedlots (also called Concentrated Animal Feeding Operations or CAFOs). The workgroup observed a public stakeholder meeting and interviewed EAD staff members. The workgroup developed a recommendation for an "Interactive Communications Plan" and agreed that EPA should make a vigorous effort to reach stakeholders, including arrangement of meetings to accommodate groups with limited travel funds, such as citizen groups. The workgroup agreed that economics should not be allowed to exclude participation; if the method of communication is refined to different levels of participants, the funding will follow. They also agreed that EPA should consider the use of professional or trained facilitators for some stakeholder meetings. Ms. Sundstrom suggested an additional item be added to Mr. Shaul's handout, ("Work Group Report: Effluent Guidelines Task Force Work Group 1: Stakeholder's Involvement") section entitled "Determine the forums for participation" (page 2 of 3) to include use of professional or trained facilitators. The Task Force agreed with the above recommendation, including the additional item suggested by Ms. Sundstrom.

#### **VI. Discussion of EPA's Use of Federal Advisory Committees and Alternative Stakeholder Mechanisms**

Carol Ann Siciliano, EPA Office of General Counsel, discussed the Federal Advisory Committee Act (FACA) and the Agency's obligations to establish the Task Force under the NRDC Consent Decree.

Ms. Frace stated that while EPA has appreciated the contributions of the Task Force, the Agency is questioning whether the Task Force should continue in its present organizational form. The Effluent Guidelines Program needs to maintain a process for stakeholder involvement, but EPA would like to consider whether a committee chartered under FACA should continue to be the appropriate mechanism.

Ms. Frace led a discussion with the members about experiences with the FACA process and other stakeholder involvement. Members offered examples about the Common Sense Initiative committee and the Agency's public interactions during the development of the proposed Industrial Laundries effluent guidelines. The industrial laundries rule involved establishment of an industry panel as required by the Small Business Regulatory Enforcement Fairness Act (SBREFA). The successes and failures of the Urban Wet Weather committee were also discussed.

The meeting paused for lunch at 12:15 pm and reconvened at 1:30 pm.

## **VII. Approval of Meeting Minutes**

The Task Force members recommended several minor corrections to the minutes of the January 25-26, 2000 meeting. The corrected minutes were approved by the Task Force.

Ms. Nellor had to leave the meeting and appointed Ms. Sundstrom as acting Chair.

## **VIII. Discussion of Effluent Guidelines Program Oversight Workgroup**

Ms. Sundstrom led a brief discussion on a paper prepared by Ms. Stoner, "Future of the Effluent Guidelines Task Force Straw Proposal, May 12, 2000." (Ms. Stoner was not present for the afternoon portion of the meeting.) The paper outlined a process for conducting an annual Task Force meeting, supplemented with quarterly status reports provided by EPA. Included in the paper were recommendations that the Task Force focus on five topic areas: length of time to develop effluent guidelines; substantive multimedia regulatory considerations (e.g. non-water quality impacts); pollution prevention considerations; industry selection; and stakeholder involvement. The Task Force declined to discuss the paper in detail due to Ms. Stoner's absence.

## **IX. Effluent Guidelines Planning Process**

On behalf of OST, Ms. Siciliano stated that EPA would welcome advice from the public on how to best implement Clean Water Act section 304(m), which requires the Agency to prepare a biennial Effluent Guidelines Plan, and to promulgate rules pursuant to identification of industries listed in each plan. She provided background on the litigation with NRDC after issuance of the first plan in 1990, leading to the 1992 Consent Decree.

The Agency will shortly publish its proposed 2000 Effluent Guidelines Plan for public comment, and will take final action later this Summer. Ms. Siciliano explained that the Agency is considering promulgating a rule that specifies how 304(m) plans will be developed in 2002 and thereafter. She suggested that the section 304(m) plan currently under development could include a solicitation of comments on the idea of a rule governing the Agency's future development efforts, and asked the members for their reaction to the idea.

The Task Force responded that providing an advance notice of the Agency's intent in the current 304(m) plan would be a timely means of gathering comment, since any rule would have to be promulgated within a year in order to influence the 2002 section 304(m) plan, and encouraged Ms. Frace to proceed accordingly. The Task Force then discussed ways in which the Agency could conduct outreach over the next six to eight months to collect comments.

The Task Force began a discussion to identify potential sources of information for EPA to contact for suggestions on which industrial categories EPA should consider promulgating an effluent guideline for, as well as for suggestions on which existing guidelines, if any, should be revisited. The Task Force identified the following sources:

- State Permit Writers
- Publicly Owned Treatment Works (POTWs operated by municipalities, counties or sanitary districts
- Association of Metropolitan Sewerage Agencies (AMSA)
- Regional or local Watershed Groups
- Clean Water Network
- State 303(d) lists of impaired waters to identify water quality stressors amenable to a solution involving a national categorical standard
- U.S. Geological Survey's National Water Quality Assessment
- River Authorities
- Subregional Council of Governments involved in water quality planning
- Other EPA media offices

The Wednesday session of the meeting concluded at 5:15pm.

## **United States Environmental Protection Agency**

### **Effluent Guidelines Task Force May 24-25, 2000 Meeting**

#### **Thursday, May 25, 2000**

The Thursday meeting began at 8:30 am.

The Task Force discussed the steps needed to articulate the 2002 section 304(m) plan, who should be involved in developing the plan, what questions should be asked, and how EPA should get feedback on these issues. Members suggested that future plans should include the following elements.

- Address important water quality/environmental problems (“address problems that matter”).
- Consider industry process change reasons as well as water quality reasons as a rationale for action.
- Identify the kind and nature of data used to select industrial sectors for consideration; explain how the data was used, recognize any limitations inherent in the data and declare any assumptions made.
- Codify industry selection criteria.

Ms. Frace and Ms. Siciliano explained the milestones in the schedule leading to the current 304(m) plan’s publication in the Federal Register. To meet a target Federal Register publication date of June 20, 2000, the proposal must be signed by the Assistant Administrator for Water, Charles Fox, by June 9, 2000. Ms. Frace stated that EPA then hoped to provide a public comment period of 45 days. Ms. Frace and Ms. Siciliano agreed to provide Task Force members within a few weeks via e-mail a copy of what will be published. She suggested that if EPA decides to include the suggestion of promulgating a rule governing development of the section 304(m) plan in the current proposal, the Task Force should hold a conference call in mid-to-late August to discuss an outreach program.

Members suggested that a professionally facilitated public workshop be held during the first week of December 2000 in Baltimore, Maryland, to develop recommendations for EPA. Ms. Siciliano noted that, for all practical purposes, the Agency would have to have a final proposal in February 2001 for the Office of Management and Budget in order to meet a May 2001 proposal date leading to a final rule by February 2002. Members suggested that if the Agency decides to hold a public workshop, the Task Force should meet during the second week of September 2000 to plan the workshop, and that this meeting should also be attended by the facilitator who will lead the workshop. Topics to be discussed at the September planning meeting include:

1. Purpose of Workshop
2. Role of Facilitator
3. Workshop agenda; frame questions and issues for discussion
4. Determine format for participation
  - By invitation
  - Open to the public
5. Workshop format
  - plenary session
  - breakout sessions by topic

Ms. Siciliano raised the question of whether this proposal should be developed concurrently with and include the 2002 section 304(m) plan. Members responded that joint development would be efficient, but discussed whether or not this was realistic. They concluded that EPA would have to determine the feasibility of this approach as the process went forward.

Several Task Force members suggested that the Agency could begin its outreach now by presenting this concept at national meetings and conferences that will take place over the next six months, such as the AMSA Pretreatment Coordinators' Workshop to be held in conjunction with EPA's state pretreatment coordinator's national meeting in Tucson, Arizona in November 2000.

Members asked EPA to plan to provide a straw man proposal for the Task Force to comment on, which may or may not also include a draft 304(m) plan, and suggested that they meet in early January 2001 for that purpose.

#### **EGTF Dates**

1. Stakeholder outreach starts now
2. Two-day public meeting - early December 2000
3. Strawman Proposal to Task Force early January 2001
4. Regulation only to OMB February 1, 2001

Proposal - publish mid-May 2001  
Close comments - mid-July 2001  
Final decision by Assistant Administrator - September 2001

Final product February 2002  
- Rule & Plan

### **Effluent Guidelines Task Force Meetings**

Ms. Sundstrom revisited the discussion of a third party reviewing all Task Force recommendations to assess if and how EPA has considered, implemented or rejected them. Members suggested that, absent a role to play in contributing to the development of a rule governing EPA's 304(m) process, there was no reason to meet again until the third party review was complete. Ms. Frace said that, pending the availability of a third party, a completion date of May 2001 might be realistic. Members suggested that a tentative meeting date in May 2001 be set for a presentation of findings to be presented by the reviewer. Ms. Sundstrom suggested that all past and current Task Force members as well as Engineering and Analysis Division staff be invited to this meeting, which she suggested could serve as a de-briefing session. Members suggested that a decision on a continuing role for the Task Force be deferred until after the results of the third party review were published.

The meeting concluded at 11:00am.

**Effluent Guidelines Task Force  
May 24-25, 2000 Meeting**

**Attendees**

**Task Force Members**

Margie Nellor  
Sanitation Districts of Los Angeles County

Michael Peters  
Structural Metals, Inc.

Guy Aydlett  
Hampton Roads Sanitation District

Lori Sundstrom  
City of Phoenix

Glenn M. Shaul  
U.S. EPA/Cincinnati

Nancy Stoner  
Natural Resources Defense Council

David Trimble  
Vista Environmental

Ronald Neufeld  
University of Pittsburgh

**Other Attendees**

Faith Burns  
National Cattleman's Beef Association

Kevin Bromberg  
SBA/Advocacy

Jim Lund  
U.S. EPA, OW/OST/EAD

Bob Elam  
Eastern Research Group

Jeff Herrewa  
U.S. EPA, OGC

Erik Anderson  
ADI Technology

William Telliard  
U.S. EPA, OW/OST/EAD

Geoffrey Grubbs  
U.S. EPA, OW/OST

CarolAnn Siciliano  
U.S. EPA, OGC

Eric Strassler  
U.S. EPA, OW/OST/EAD

Beverly Randolph  
U.S. EPA, OW/OST/EAD

Sheila Frace  
U.S. EPA, OW/OST/EAD

