



ASTSWMO, Providing Pathways to Our
Nation's Environmental Stewardship Since 1974

January 8, 2021

Mr. Adam Klinger
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Mr. Klinger:

The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) appreciates the opportunity to provide feedback regarding the fiscal year performance data that the U.S. Environmental Protection Agency (EPA) is proposing to use in conducting State Review Framework (SRF) reviews in FY2021.

The Compliance Monitoring and Enforcement Task Force within the ASTSWMO Hazardous Waste Subcommittee considered the approaches described in the December 18, 2020 letter from Susan Bodine. This response reflects feedback the Task Force received in response to our distribution of Ms. Bodine's letter to State and Territorial (State) hazardous waste programs, as well as input from individual Task Force members. The feedback we are providing has not been reviewed or adopted by the ASTSWMO Board of Directors. In addition, individual State hazardous waste enforcement programs may directly provide their own perspectives to EPA.

The Task Force appreciates EPA's consideration of COVID-19 impacts on the operation of State hazardous waste enforcement programs in FY2020. We received a mixed response to EPA using FY2019 in place of FY2020 performance data for the FY2021 reviews:

- Some State hazardous programs support using FY2019 data due to COVID-19 related operational issues. For example, the Hazardous Waste Program within the New Hampshire Department of Environmental Services strongly supports the use of FY2019 data as being representative of the work they do, whereas the FY2020 data reflect the impacts of COVID-19 and the additional flexibility EPA has offered to States.
- Some State hazardous waste programs have planned for and would like to use FY2020 data in their FY2021 reviews. We are aware of one State hazardous waste program whose review is currently being conducted using FY 2020 data.

A shared view among Task Force members is that the year selected should be the result of coordination and agreement between each State up for review and their respective Region. Prior to conducting FY2021 reviews of State hazardous waste enforcement programs, the Task Force

encourages EPA Regions to reach out to the State(s) scheduled for review in order to arrive at a mutual decision about which year's data to use. For State hazardous waste enforcement programs that would like to use FY2020 data, we received a comment requesting that EPA clarify the factors EPA will consider before a mutual decision among the State, the Region and the Office of Enforcement and Compliance Assurance to use FY2020 data is made.

The Task Force also recommends that the performance year data selected be a media program-specific decision, given that SRF reviews are multi-media.

Thank you again for the invitation to provide feedback and for your consideration of our views. If you have any questions, please contact me at nicole.eby@dnr.mo.gov or 573-751-2347.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Eby".

Nicole Eby (MO)
Chair, Compliance Monitoring and Enforcement Task Force
ASTSWMO Hazardous Waste Subcommittee