

ASTSWMO

QUARTERLY NEWSLETTER

Summer 2012

To enhance and promote effective State and Territorial programs for waste and materials management, to encourage environmentally sustainable practices and to affect relevant national waste and materials management policies.

UPCOMING MEETINGS

October 18-19, 2012: Annual Meeting in Washington, DC.

RECENT ASTSWMO PUBLICATIONS

ASTSWMO submitted [comments on Plan EJ 2014: Considering EJ in EPA's Permitting Process](#), Docket ID No., EPA-HQ-OAR-2012-0452.

ASTSWMO President Ed Thamke sent [a letter to the U.S. Nuclear Regulatory Commission](#) in response to the Commission's denial of ASTSWMO's 2009 petition for rulemaking on tritium exit signs.

The Long-Term Stewardship Focus Group has developed an institutional controls costing tool that represents a State perspective when considering Institutional Controls. The tool will be especially useful for those States currently in the development or implementation stage of a State LTS program. [The two documents and the spreadsheet are available on the CERCLA and Brownfields Research Center Policies and Publications page.](#)

The Federal Facilities Research Center's Radiation Focus Group developed an [Information Sheet](#) to provide State and local regulatory managers with basic information on TENORM associated with shale gas operations.

HAZARDOUS WASTE ELECTRONIC MANIFEST ESTABLISHMENT ACT (S. 710)

Senator Thune (SD) introduced the Hazardous Waste Electronic Manifest Establishment Act (S. 710) on March 31, 2011. ASTSWMO wrote a letter in support of the bill. S. 710 passed the Senate on August 2, 2011 by unanimous consent. Under the bill, industry will pay fees to be used by U.S. EPA to establish the database and infrastructure for the e-manifest system.

On June 21, 2012, the [Subcommittee on Environment and the Economy held a hearing](#) on the bill. Lisa A. Silvia, Senior Waste Inspector from the Virginia Department of Environmental Quality, presented testimony on behalf of ASTSWMO. Lisa's testimony consisted of a practical explanation of the manifest process from the perspective of a RCRA inspector. Her testimony was informative and very much appreciated. ASTSWMO's testimony did not touch on the sticking point in the bill, which is how the fees will be collected and managed, whether fees should be paid directly to U.S. EPA (Senate version), or appropriated by Congress. The Subcommittee amended the bill so that unlike the Senate version, the fees will go to a fund to be appropriated by Congress rather than administered directly by U.S. EPA. [As amended, S. 710](#) was referred to the full Committee and passed on July 31, 2012. For reference, see other House amendments below.

See full description of the bill at:

<http://republicans.energycommerce.house.gov/Media/file/Markups/Environment/20120726/HMTG-112-HMKP-IF18-20120726-SD001.pdf>

The House amendment in the nature of a substitute adopted by the Subcommittee would:

- (1) Preserves the purpose of S. 710, to create a system by which hazardous waste manifests may be submitted, stored, and accessed electronically;
- (2) Converts funding for the system from mandatory to discretionary;
- (3) Strikes the language in S. 710 that required the winning contractor to front the costs of building the electronic manifest system, which would be recouped from later fees; and,
- (4) Authorizes appropriations of \$2 million, for each of fiscal years 2013-2015, for start-up activities, fully offset through the collection of user fees.

The ASTSWMO Newsletters are archived at:

http://astswmo.org/Pages/Policies_and_Publications/Newsletter.html

HAZARDOUS WASTE SUBCOMMITTEE

Stay tuned for online trainings sponsored by the Hazardous Waste Training Task Force.

COAL ASH RECYCLING AND OVERSIGHT ACT OF 2012

The "[Coal Ash Recycling and Oversight Act of 2012](#)" was introduced on August 2, 2012 by Senator John Hoeven (ND) with bipartisan support from 12 Democratic and 11 Republican co-sponsors (see table below). While it is unclear what will happen next in the Senate, it's heartening to see bipartisan support.

The bill is intended to be the Senate version of the "Coal Residuals Reuse and Management Act" (H.R. 2273) which passed the House on October 14th, 2011 by a vote of 267 to 144 with bipartisan support (230 Republicans and 37 Democrats). The bill is the product of extensive bipartisan negotiations. ASTSWMO played key roles in those negotiations in order to protect State interests. The Senate bill addresses issues raised by opponents of the bill while preserving the rights of States provided in the House bill. It provides for the regulation of Coal Combustion Residuals (CCR) in a protective manner by States using minimum national standards and provides for appropriate U.S. EPA oversight while minimizing the administrative burden on already strained State and federal resources. The bill ensures States will regulate CCR under enhanced existing federal standards with a maximum of flexibility, preservation of the rights of States to be more stringent, and in a manner that will assure expeditious implementation of State CCR disposal programs.

One noticeable change is that the so-called "waiver" provision in the House bill was removed from the Senate bill (4011(c)(3)). The provision subjected the bill to major criticism by opponents premised on conjecture that States would be irresponsible in exercising the waiver. The provision pre-dated other revisions to the House bill during negotiations that made the waiver provision unnecessary. Initially, the bill referenced all Part 258 requirements, including those not applicable to the disposal of coal ash such as monitoring for methane gas. The final bill eliminated the superfluous provisions thereby making the waiver unnecessary. However, the regulatory flexibility provided in the applicable Part 258 requirements is preserved. Most of the other revisions were for clarification. Some critics argued that because H.R. 2273 applied the minimum criteria to State Permit Programs and not to landfills and surface impoundments, it is unlikely that States would issue permits to CCR units requiring compliance with the minimum revised criteria. It is an improbable notion and was easily addressed. Most of the revisions were similar in nature.

| Coal Ash Recycling and Oversight Act of 2012 Sponsored by Senator John Hoeven (ND) | |
|---|--------------------------------------|
| <i>Republican Co-Sponsors</i> | <i>Democratic Co-Sponsors</i> |
| Senator Mitch McConnell (KY) | Senator Kent Conrad (ND) |
| Senator Rob Portman (OH) | Senator Max Baucus (MT) |
| Senator John Boozman (AR) | Senator Herb Kohl (WI) |
| Senator Roy Blunt (MO) | Senator Mary Landrieu (LA) |
| Senator Ron Johnson (WI) | Senator Joe Manchin (WV) |
| Senator Jerry Moran (KS) | Senator Mark Warner (VA) |
| Senator Lamar Alexander (TN) | Senator Mark Pryor (AR) |
| Senator Patrick Toomey (PA) | Senator Claire McCaskill (MO) |
| Senator Lindsey Graham (SC) | Senator Ben Nelson (NE) |
| Senator John Thune (SD) | Senator Bill Nelson (FL) |
| Senator Orrin Hatch (UT) | Senator Bob Casey (PA) |
| | Senator Jim Webb (VA) |

INTERESTED IN VOLUNTEERING ON AN ASTSWMO TASK FORCE OR FOCUS GROUP?

Visit the [Task Force and Focus Group Openings](#) page.

PEER MATCH

Interested in conducting a Peer Match? Peer Match funding supports the ability for one, sometimes two, State/Territorial (State) managers or staff seeking assistance to travel to another State for two to three days to exchange information, applications, experiences, technologies, and reports on programmatic approaches of particular interest to the assistance-seeking State. Information-providing States can also travel to States requesting assistance to share knowledge and expertise. ASTSWMO will reimburse State staff for travel expenses incurred on the peer match trip.

Currently, ASTSWMO has Peer Match funding for Superfund and Brownfields. All other program funding has been fully utilized. Please visit the [Peer Match](#) page to download the appropriate forms.

TRAVEL POLICY

Has it been awhile since you traveled with ASTSWMO? Then please re-familiarize yourself with our Travel Policy; a revision was posted in March. The [Travel and Reimbursement page](#) has examples of a correctly filled out reimbursement form as well as helpful hints.

FUDS

The Department of Defense Budget Request is a significant cut in the fiscal year 2013 cleanup budget for Formerly Used Defense Sites (FUDS). This is a big concern because it is such an important program for States. The FY 2013 Budget Request of \$237M is 28% less than the FY 2012 appropriation of \$327M and 25% less than the \$317M appropriated in FY 2011. ASTSWMO sent letters to the House and Senate Committees with jurisdiction. The House passed the Defense bill without increasing the funding. The Senate, which has historically bumped up the funding for FUDS, added \$50 million above the budget estimate to help address unfunded needs. (The total Senate appropriation is \$288, which is less than 12% below FY 2012 and 9% below the FY 2011 appropriation of \$317M. The appropriation bill has been placed on the Senate Legislative calendar.

| Comparison FY 2013 Appropriations ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES | |
|--|---------------|
| Appropriations, 2011 | \$316,546,000 |
| Appropriations, 2012 | \$326,495,000 |
| Budget estimate, 2013 | \$237,543,000 |
| House allowance | \$237,543,000 |
| Committee recommendation | \$287,543,000 |

MATERIALS MANAGEMENT SUBCOMMITTEE

The spring 2012 ASTSWMO newsletter included a report about the April Materials Management Subcommittee's All-Hands Meeting and the discussion that focused on developing an ASTSWMO Subtitle D Core Report. Based on feedback received at the meeting, the Subcommittee is taking a new approach to sharing State solid waste and materials management program information. Instead of a written core report to address specific program areas, the Solid Waste Training and Technology Transfer Task Force plans to develop a webinar series to provide for real-time State information exchange on emerging program topics. The Task Force will be seeking input from State and Territorial Solid Waste Program Managers in identifying emerging topics and gathering program information.

The Beneficial Use Task Force has begun to look at the beneficial use of oil and gas wastes. The Subcommittee is considering expanding upon this effort for a broader look at management of these waste streams. Oil and Gas Wastes will be the focus of one of the Materials Management technical training sessions at the Annual Meeting.

TANKS SUBCOMMITTEE

On July 13, 2012, ASTSWMO sent an information request to all State Tanks Managers seeking State program costs data in order to begin developing the ASTSWMO Tanks Core Report. Information received from this request will be analyzed by the ASTSWMO Core Report Workgroup for the purpose of illustrating costs needed to administer the UST program nationwide. The final report may also be used to assist all State programs in understanding the impacts of potential budgetary cuts. ASTSWMO requests that each State provide information by September 15, 2012. Draft results will be shared with our membership during the Annual Meeting in October. For additional information on the Core Report: http://www.astswmo.org/Files/Meetings/2012/2012-MYM/Presentations/Tanks-MYM_Core_Report.pdf

ARE YOU RETIRING?

If you would like to stay connected to ASTSWMO members and staff during retirement, please let us know how to reach you at home. We are building a network of retired members.

CERCLA AND BROWNFIELDS RESEARCH CENTER

The State Superfund Focus Group presented their 2012 State Superfund Managers Symposium Tuesday, June 19 through Thursday, June 21, 2012 in Providence, Rhode Island.

The two-and-a-half day Symposium was designed as a forum for interaction among State and Territorial (State) Superfund Managers, U.S. EPA Headquarters and Regional staff, and other invited guests. The primary objective of this Symposium was to emphasize discussion and information-sharing opportunities among speakers and attendees regarding approaches and strategies used by State Superfund programs in the current economy.

The State Superfund Managers Symposium proceedings can be found at: http://astswmo.org/Pages/Meetings/Past_Meetings/2012-SSMS.html.

FEDERAL FACILITIES RESEARCH CENTER

ASTSWMO received and distributed several announcements this quarter from U.S. EPA and U.S. DoD related to new and important products, workgroups, and initiatives specific to federal facilities. Members of the Federal Facilities Research Center, State members from the DSMOA Steering Committee and Munitions Response Forum, and other volunteer States have played important roles in development of some of these items.

- New EPA Federal Facilities Site Evaluation Project webpage: <http://www.epa.gov/fedfac/ffsep/index.htm>
- New EPA FFRRO Emerging Contaminants Webpage: http://www.epa.gov/fedfac/documents/emerging_contaminants.htm
- New DSMOA Eligibility Policy Memo, dated May 4, 2012
- UFP-QAPP Training announcements and materials: <http://www.epa.gov/fedfac/documents/qualityassurance.htm>
- U.S. DoD Announcements on new Munitions Workgroup and FUDS Forum Working Group developments.

QUESTION OR COMMENT ABOUT THE NEWSLETTER? PLEASE CONTACT ALLISON GOLDBERG (ALLISONG@ASTSWMO.ORG OR 202-624-7883) OR DANIA RODRIGUEZ (DANIAR@ASTSWMO.ORG OR 202-624-5973).