



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

December 18, 2020

Miles Keogh
Executive Director
National Association of Clean Air Agencies
1530 Wilson Boulevard, Suite 320
Arlington, Virginia 22209

Dear Mr. Keogh:

The U.S. Environmental Protection Agency is proposing to conduct State Review Framework (SRF) reviews in FY2021 (this fiscal year) using FY2019 performance data as the recommended approach because of COVID-19 impacts on EPA and state enforcement programs in FY2020. Alternatively, if mutually agreed upon by the EPA Office of Enforcement and Compliance Assurance (OECA), the Region, and the state, we would consider using FY2020 data. OECA is seeking state feedback on this proposed approach from ECOS, ACWA, NACAA, and ASTSWMO and their members.

The EPA worked with states to develop the SRF, a nationally consistent approach that reviews state and regional direct implementation (DI) enforcement programs using standardized metrics based on long-standing policies. All state and DI programs are reviewed within a five-year cycle – about 10 to 12 programs are reviewed per year.

During the COVID-19 public health emergency, the EPA and states have worked together to find alternative ways to maintain active compliance monitoring and enforcement approaches that protect the health of our employees, the employees of regulated entities, and the public. In FY2021, SRF reviews would ordinarily review the FY2020 performance of about 10 state and regional programs. However, reviewing state FY2020 performance would present significant challenges. FY2020 activity would likely not accurately represent the ongoing implementation of a state or Regional program and given COVID-19 flexibilities exercised by the EPA and states, the existing SRF review protocol may not necessarily provide meaningful findings and recommendations for the future. SRF reviews have historically occurred about once every five years and using FY2019 data will not provide as current a picture as we might like. However, these data will be more current than the Round 3 review (FY2012-2017) and more reflective of the state's normal implementation than using FY2020 information. The EPA will work closely with states under review to ensure the findings and recommendations are appropriate given the time elapsed and COVID-19 effects on operations going forward.

Of the states scheduled to be reviewed in FY2021, there may be states that would prefer a review of FY2020 activity. At the state's request, the EPA is willing to consider SRF reviews in FY2021 using FY2020 data and standard SRF processes and metrics.

We recognize that COVID-19 impacts are continuing into FY2021. Given that the course of the public health emergency and its impacts in FY2021 are unpredictable at this time, this proposal does not address how the EPA might approach FY2022 reviews of FY2021 performance. We look forward to discussing such approaches with you later in 2021.

Please send any comments on this approach for FY2021 reviews to Adam Klinger (klinger.adam@epa.gov) of my staff by January 8, 2021.

Sincerely,

Susan Parker Bodine