Hazardous Waste Program Authorization Issues Report

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Rulemaking & Authorization Task Force
Hazardous Waste Subcommittee

Association of State and Territorial Solid Waste Management Officials (ASTSWMO)

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1. Executive Summary

The Resource Conservation and Recovery Act (RCRA) State Authorization program establishes the framework by which the U.S. Environmental Protection Agency (EPA) delegates primary responsibility for implementing the federal hazardous waste program to States and Territories (States). This process ensures national regulatory consistency while allowing States to address local environmental protection priorities. Though important, the authorization process is also resource-intensive, time-consuming, and subject to various inconsistencies that create challenges for both States and EPA.

To document these challenges and identify potential improvements, the ASTSWMO Rulemaking & Authorization (R&A) Task Force under the Hazardous Waste Subcommittee conducted two surveys in 2023 and 2024 of States across all ten EPA regions. The surveys collected both quantitative and qualitative data on staffing, authorization timelines, communication practices, program documentation, and overall efficiency of the authorization process. Participation rates were high, with responses from nearly all States surveyed.

1.1. Key Findings

- Staffing: Nearly all States reported co-assigning hazardous waste rulemaking and authorization responsibilities to staff who also carry other program duties. Most States reported less than one full-time equivalent (FTE) staff dedicated to rulemaking and authorization, with duties frequently spread across multiple staff. Although State staff generally had significant experience, employee turnover in both States and EPA presents risks to institutional knowledge.
- Authorization Timelines: While most States submit authorization applications every three to five years, over a quarter reported that applications took longer than three years to complete and approve. Extended EPA review and Federal Register publication delays further compound these timelines.
- Process Inefficiencies: Delays stem from lengthy State rulemaking procedures, resource limitations, staff turnover, and EPA review processes. Both State and federal factors contribute to inefficiencies.
- Program Descriptions (PDs): States highlighted inconsistent requirements across EPA regions regarding PDs. Several PDs exceeded 100 pages, while others are significantly shorter, and there is little clarity on their value or purpose.
- Communication Practices: Nearly 90% of States reported using informal draft submissions to EPA and this was identified as a best practice. However, communication and review approaches remain inconsistent across regions.

1.2. Impacts

The cumulative effect of these inefficiencies is that most States are not current with federal hazardous waste rule adoption or authorization. At the time of the surveys, only about 30% of States reported being current with federal rule adoption and only 22% were fully authorized for all adopted rules. This misalignment undermines program consistency, complicates enforcement

for multi-State regulated industries, and diverts staff time away from permitting, compliance, and enforcement activities.

1.3. Recommendations

i. Streamline and Standardize Processes: Expand use of Lean authorization processes across all EPA regions, standardize authorization package content, and shorten review timelines.
ii. Program Description Reform: Develop nationally consistent, simplified approaches to PDs and update model documents to reflect program revision application content rather than initial authorization requirements.
iii. Enhance Communication: Promote best practices for early draft reviews, improve transparency around contractor use, and consider modern digital platforms for document exchange and tracking.
iv. Continue Training: The Task Force encourages EPA to continue regular training to help States develop and maintain expertise.

2. Introduction

2.1 Background

RCRA State authorization is the federal rulemaking process by which EPA delegates legal authority and primary responsibility of implementing the RCRA Subtitle C hazardous waste program to individual States in lieu of EPA. Through the authorization process, States achieve national consistency and minimum standards with the federal hazardous waste regulatory program while retaining the flexibility to address local environmental priorities and State-specific needs.

2.2 Purpose

The goal of this Issue Paper is to present and discuss State survey data related to RCRA State authorization. Both quantitative and qualitative data were collected through two surveys to State hazardous waste program representatives. The R&A Task Force developed the surveys, compiled survey results, and analyzed survey data. Through presentation and discussion of survey data, this Issue Paper aims to establish a shared understanding of the experiences and challenges of the State authorization program. Future position papers will build on the information presented in this Issue Paper with the intent of establishing an ongoing dialogue between States and EPA on areas in which State authorization may be improved, strengthened, and streamlined.

3. Background and Context

3.1 Federal-State Relationship in RCRA Authorization

Under RCRA, States can receive authorization to administer the federal hazardous waste regulatory program, provided they meet federal minimum standards in 40 CFR Part 271. Currently, 48 States, one Territory, and the District of Columbia (States) are authorized for the base RCRA program and various subsequent amendments. As EPA promulgates new or revised hazardous waste rules, States are required to update their own rules and seek updated program authorization from EPA through submittal of program revision applications. EPA's State

Authorization Tracking System (StATS) provides a comprehensive look at each State's status in adopting RCRA rules and maintaining authorization.[1]

3.2 Regulatory Authority and Guidance

The regulatory requirements for authorization of State hazardous waste programs are in 40 CFR Part 271, and the specific requirements for revision of a State program authorization are in 40 CFR 271.21. EPA's State authorization website provides additional information such as authorization-specific guidance documents, model document templates, and training information.

4. Survey Design, Methods, Objectives, and Results

This section presents data collected in the 2023 Rulemaking and Authorization State Survey (Survey 1) conducted in August 2023 and the 2024 Follow-Up Survey (Survey 2) conducted in April 2024. The general objective of both surveys was to better understand specific issues and challenges faced by States in submitting complete, time-efficient, and approvable RCRA program revision applications to EPA regions. Survey 1 focused on the experience level of State agency staff assigned to rulemaking and authorization duties, frequency of authorization package submittal, whether States were current with hazardous waste rule adoption and authorization, content of authorization packages, and challenges that States encountered during the authorization process. Survey 2 sought additional information on data in Survey 1 that warranted further inquiry.

The surveys used questions requesting a numerical response (referred to herein as "quantitative" questions) and questions requesting a written response (referred to herein as "qualitative" questions). Quantitative data is presented at the national level to maintain the confidentiality of States and EPA regions. Qualitative data is presented when representative of identifiable themes in the data, but responses have not been attributed to an individual State to maintain confidentiality. Survey questions were designed to gather data on issues of known interest to States in completing and submitting RCRA authorization program revision applications to EPA. The survey design and survey results are instructive for general trends, quantitative and qualitative patterns, and were not intended for complex statistical analysis.

The surveys were circulated among the States that are RCRA-authorized or actively seeking authorization throughout the ten EPA regions. The survey questions are presented in Appendices 1 and 2. There were 26 questions in the 2023 survey, of which the first four questions pertaining to personal information of the respondents and State identification are kept confidential. The 2024 follow-up survey had 15 questions of which three are kept confidential. A total of 50 responses (three not yet RCRA-authorized) were received in the 2023 Survey and 36 responses (one not yet RCRA-authorized) in the follow-up survey representing all EPA regions. Table 1 below shows the response rate of the States in both surveys by EPA region.

[1] The surveys did not separate out rules promulgated under the Hazardous and Solid Waste Amendments of 1984 (HSWA).

Both surveys provided a well-rounded dataset on aspects related to State authorization staffing, communication with EPA, process issues, time spent by both States and EPA completing various stages of authorization work, required content of authorization documents such as Program Descriptions, and issues of consistency or inconsistency in how State authorization applications are evaluated and ultimately approved by EPA. The ASTSWMO R&A Task Force views collecting data on these issues and challenges as an initial step in working with EPA regions and headquarters toward some appropriate level of national consistency in the evaluation criteria, timeliness, process, and communication approach by which State authorization applications are reviewed and approved by EPA.

Table 1. Participation of States & Territories in the Rulemaking and Authorization Surveys

EPA Regions	RCRA Authorized States & Territories in the Region	State/Territories Participation*		Response Rate (% of Region)	
		2023 Survey	2024 Survey	2023 Survey	2024 Survey
Region 1	6	6	5	100	83
Region 2	2	2	2	100	100
Region 3	6	6	5	100	83
Region 4	8	8	3	100	38
Region 5	6	5	5	83	83
Region 6	5	4	1	80	20
Region 7	3	3	3	100	100
Region 8	6	6	4	100	67
Region 9	5	4	4	80	80
Region 10	3	3	3	100	100
Total	50	47	35	94	70

* Responses from Unauthorized States/Territories are not included

4.1 State Authorization Staffing

Several questions in both surveys provide data on State agency staffing related to federal hazardous waste rule adoption and RCRA State authorization. State responses suggest common themes among State agencies and differing State approaches. Differences are to be expected given variations in State size, funding, rulemaking and legislative processes, and industries regulated under RCRA. Common themes include:

- Co-assignment of State rulemaking and authorization duties in the same employee(s);
- Primary assignment of rulemaking and authorization duties, often in a single State employee;
- Some amount of shared responsibility for rulemaking and authorization duties among a broader group of State RCRA program staff, supervisors, and legal staff in areas such as review and comment; and
- Moderate-to-high levels of experience among State agency staff assigned to rulemaking and authorization work.

A total of 97% of State respondents reported that staff working on hazardous waste rule adoption also handle authorization[2], identifying these as overlapping duties in nearly all State agencies. Co-assignment of these duties is both logical and efficient given the close connection between State hazardous waste rule drafting and preparation of RCRA rule checklists and other authorization application components. About 66% of respondents reported less than 1.0 FTE dedicated to hazardous waste rule adoption, while 33% reported 1.0 FTE or more [3] (Figure 1). Responses for staffing numbers dedicated to State authorization were nearly equivalent with 69% reporting less than 1.0 FTE dedicated to authorization work and 31% reporting 1.0 FTE or more [4].

[2] Survey 2, Question #7: Do the FTEs working on hazardous waste rule adoption also handle authorization tasks?

[3] Survey 2, Question #4: How many Full-Time Equivalents (FTEs) at your agency are dedicated to federal hazardous waste rule adoption?

[4] Survey 2, Question #8 : How many FTEs at your agency are dedicated to federal hazardous waste rule authorization?

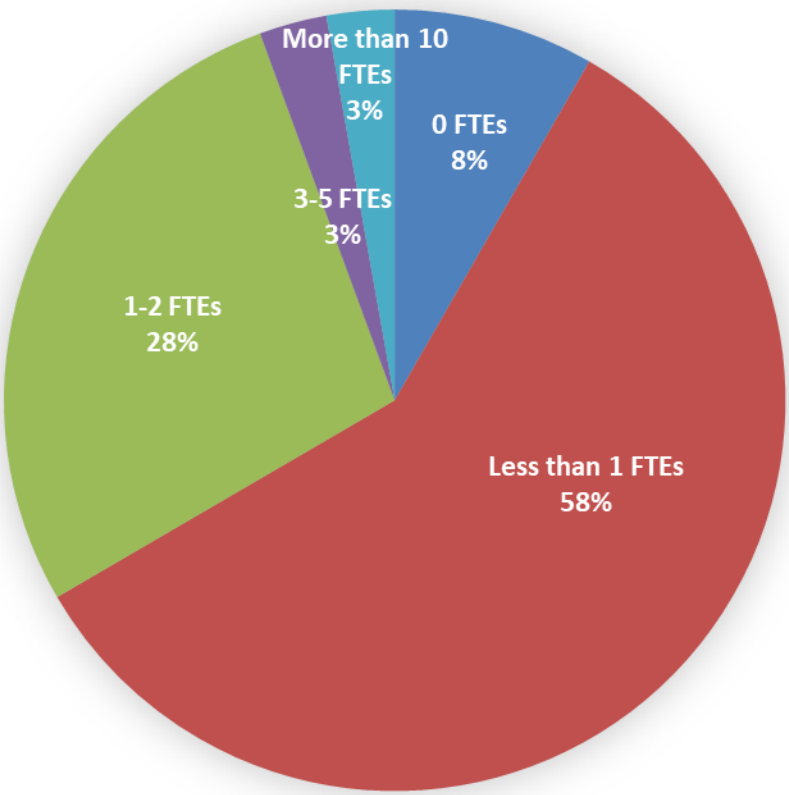

Figure 1. Full-Time Equivalents (FTEs) dedicated to federal hazardous waste rule adoption (Survey 2).

With only one-third of State respondents reporting a dedicated RCRA rulemaking and authorization position (1.0 FTE or more) at the time of Survey 2, these data could be indicative of a lack of funding available to State RCRA programs for authorization staffing purposes or a decision by some States to assign these duties among various agency staff or supervisors who support the State RCRA program in other areas such as compliance, permitting, or enforcement. Staffing needs at individual State agencies may also relate to other factors such as the complexity of the State rulemaking process, the amount of legislative involvement in State rulemaking or budgetary processes, or the frequency of submittal of authorization packages to EPA[5].

Qualitative data provides a broader perspective of State agency staffing beyond the numbers of FTEs assigned to rulemaking and authorization work. Qualitative data[6] following the question, "[o]n average, how many years of experience do these [authorization] staff have?", was reviewed for mentions of internal staff collaboration within State agencies during development of authorization packages. Though the question did not specifically ask what other RCRA program

[5] See Survey 1, Question #6: On average, how many years of experience do these staff have?, and Survey 2, Question #6 : - If your State is behind on federal rule adoption, what are the primary reasons?, for support that these factors are also variable among States and may influence staffing needs.
[6] Survey 1, Question #8

responsibilities were shared by authorization staff, respondents voluntarily reported staffing data along several themes:

- Co-assignment of duties related to authorization with duties related to other aspects of State RCRA program implementation such as compliance monitoring, inspections, permitting, program information management, enforcement, etc.
- Involvement of management and supervisory staff in at least review, if not also package development.
- The involvement of and coordination with agency attorneys or other legal support staff in State government in review or authorization package development.

These data indicate that in many State agencies, authorization responsibilities are collaborative and co-assigned to staff with multiple RCRA program duties or multiple staff such as inspectors, permit writers/engineers, supervisors, or attorneys who may also participate in various aspects of package development, review, comment, and approval. Thus, the preparation, review, and ultimate approval of a program revision application is both a staff- and resource-intensive activity for State agencies.

As presented in Figure 2 below, State agency staff assigned to rulemaking and authorization duties generally had moderate-to-high years of experience in these duties, particularly when compared with present turnover rates at State environmental agencies which ASTSWMO members and R&A Task Force members have discussed anecdotally.

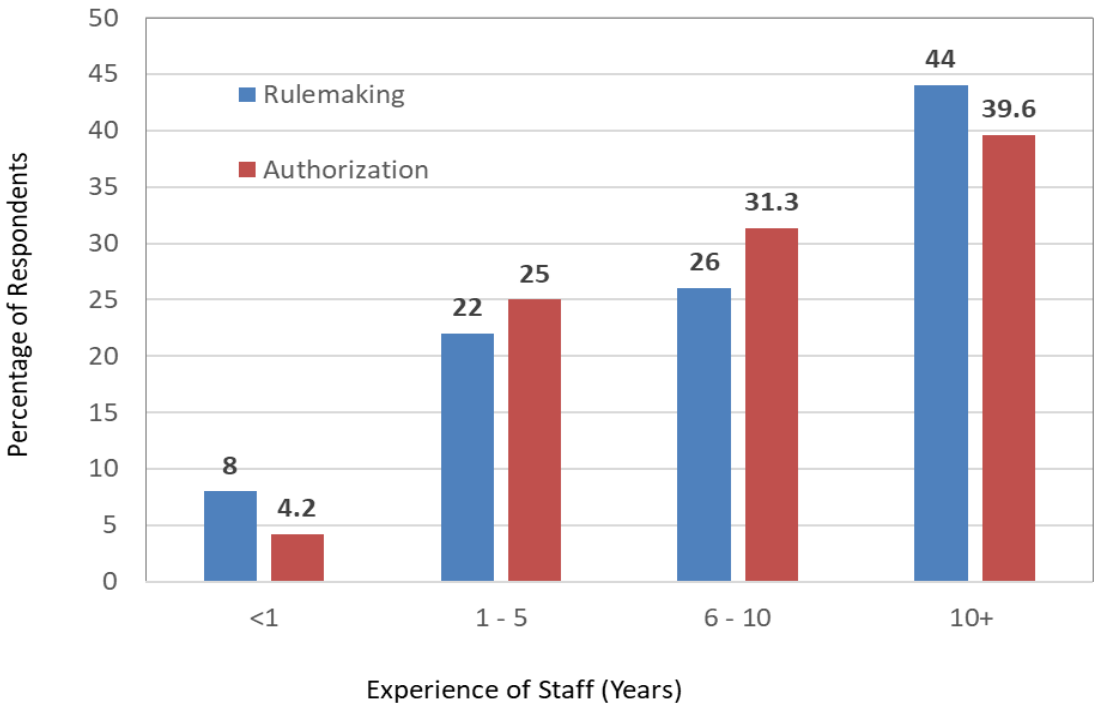

Figure 2. Rulemaking and Authorization experience of State staff (Survey 1)

Combined into broader categories, 30% of State staff with RCRA rulemaking and authorization duties had five years of experience or less while 70% had six years of experience or more. Considering results from Survey 1[7],that two-thirds of State respondents reported submitting authorization program revision applications to EPA every five years or less, and that EPA has offered an Authorization Training Conference three times since 2018, it could be inferred that State agency staff with six years of experience have most likely successfully completed one authorization package and had the opportunity to attend at least one EPA Authorization Training Conference. While having relatively experienced staff assigned to rulemaking and authorization is inarguably positive, these demographics indicate the importance of ongoing EPA training conferences and State agency succession planning as these experienced staff enter retirement or take internal promotions and external job opportunities.

4.2 Authorization Application Turnaround Time; State Rule Adoption Timeliness & Authorization Status

As illustrated in Figure 3 below, most State respondents (52%) reported submitting authorization program revision applications every three to five years, with 14% submitting applications more frequently than every three years and 34% submitting less frequently than every five years[8]. Rulemaking and preparation of authorization revision applications are time- and process-intensive tasks, and it is reasonable that many States are submitting packages every few years; but those States with especially long application intervals, such as greater than five years, may require additional EPA resources, support, or understanding of the causes for less frequent application submittal.

[7] Survey 1, Question #13: On average, how often does your State submit Authorization application packages?
[8] Survey 1, Question #13 - On average, how often does your State submit Authorization application packages?

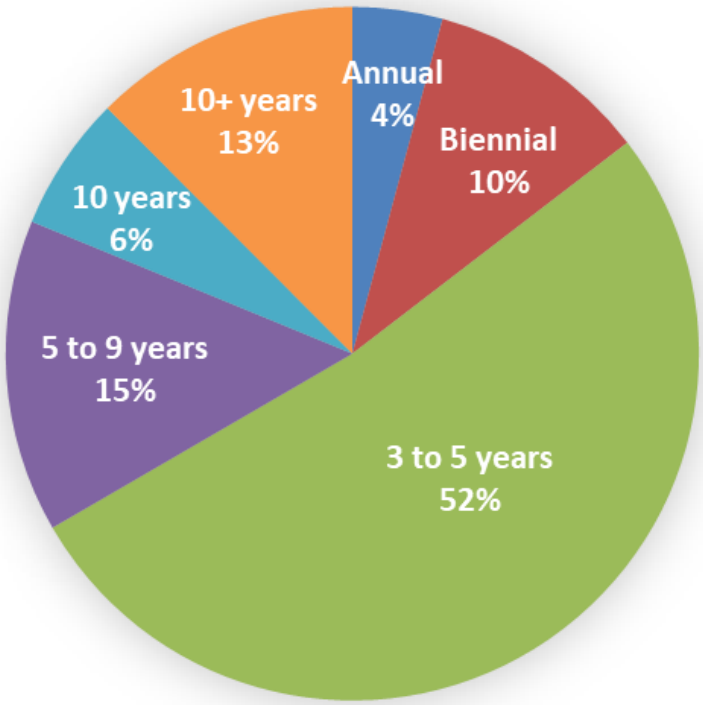

Figure 3. State authorization application submittal timelines (Survey 1).

The time between authorization application submittals is often simply a function of the amount of time necessary to develop the application, discuss and resolve any specific issues in the application with EPA, and communicate with EPA on the status of the application as it moves through various stages of review and comment prior to final approval. As displayed in Figure 4 below, over half (54%) of State respondents reported that work on their last approved authorization application took between one and three years while 27% of States reported time frames longer than three years, and 19% reported completion time frames less than one year[9].

[9] Survey 1, Question #14: How long did it take to complete your last approved Authorization application package? That is, how much time elapsed from when work on the package began and when it was approved by EPA?

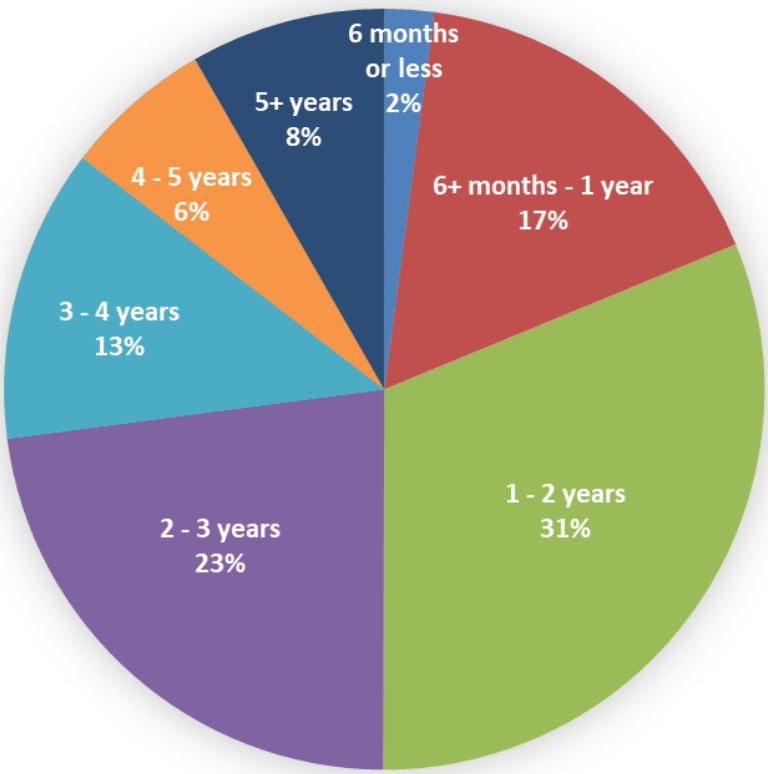

Figure 4. Time for completion of a State authorization package (Survey 1).

Unless a State is seeking authorization for a very large number of rules, say more than 10 to 15, the R&A Task Force considers spending longer than three years on a single package to be a burden on States and "too long". For this latter group spending longer than three years on a single authorization package, it must be acknowledged that this survey question or other survey questions did not inquire about the size of the authorization package at issue or ask the respondent to identify the relative amounts of time spent by the State developing the package versus the time spent by EPA reviewing and approving the package, all of which would likely affect the amount of time necessary to complete the package. Nonetheless, States should seek ideas and opportunities for collaboration with EPA so that the total amount of time spent on authorization package development, review, and approval is limited to three years or less.

One of the discrete procedural steps in the larger, "start-to-finish" authorization process is the time between formal application submittal by the State and eventual publication of the Federal Register Notice (FRN) of final approval. During this step, the authorization application can be considered fully out of the State's hands and in EPA's hands awaiting completion. States report a range of EPA timeframes for completing FRN approval publications with 25% of States reporting six months or less, 40% reporting greater than six months but less than one year, 26% one to two years, 4% three to four years, and 4% four to five years. These data generally align with much of the data presented above in that for approximately two-thirds of respondents (66%), FRN approval notices are being published in a reasonable timeframe of less than one year, but another

one-third of States report anywhere from one to five years for FRN approval notices. Longer FRN publication timeframes, especially those taking three to 5 years, may negatively impact States' ability to keep current with their State authorization status and make it difficult to get started on a new package while the one under review by EPA is pending final approval.

As the above data support a premise that State rulemaking and RCRA authorization work on a single package typically spans multiple years and may be vulnerable to various types of delays, it is not surprising that survey data also indicates very few States are current with federal hazardous waste rule adoption and State authorization. Regarding federal hazardous waste rule adoption at the State level, 30% of respondents reported that they were current at the time of the survey while 66% reported that they were not current[10]. Reasons given by States for not being current with State adoption of federal hazardous waste rules were varied as respondents could select multiple answers. As shown in Figure 4, resource constraints (61%) and length of the State rulemaking process (58%) were the primary issues. While the latter is only within the control of States to improve, the former reflects both State and EPA RCRA program funding contributions. Other reasons provided by the respondents included: historical backlog, length of time involved in the authorization process, prioritization of State resource expenditure on other State functions over adoption of federal rules, past management decisions, EPA process delays, staff resource constraints, separate State agencies having rulemaking and authorization duties, and no substantial new federal rules since last State rule update.

The ongoing promulgation of new federal hazardous waste regulations is another reason for States not being current on State adoptions. At the time of the survey, several new federal rules had recently been promulgated, making it challenging for States to ever be truly current with the federal hazardous waste program. Regarding State authorization of federal hazardous waste rules adopted at the State level, 22% of respondents reported that they were current and 78% reported that they were not current[11]. While the surveys did not contain a question asking States to identify causes why they were not current with authorization as the surveys did in reference to rulemaking, the R&A Task Force nonetheless hopes that these data can foster a solutions-oriented discussion between States and EPA on how to streamline the authorization process where possible, such as making the Lean management system used by EPA Regions 1 and 4 available in all regions.

[10] Survey 1, Question #8; the values do not add to 100% because 1 respondent reported that they were not an authorized State.

[11] Survey 1, Question #12: Is your State currently authorized for all adopted federal hazardous waste rules?

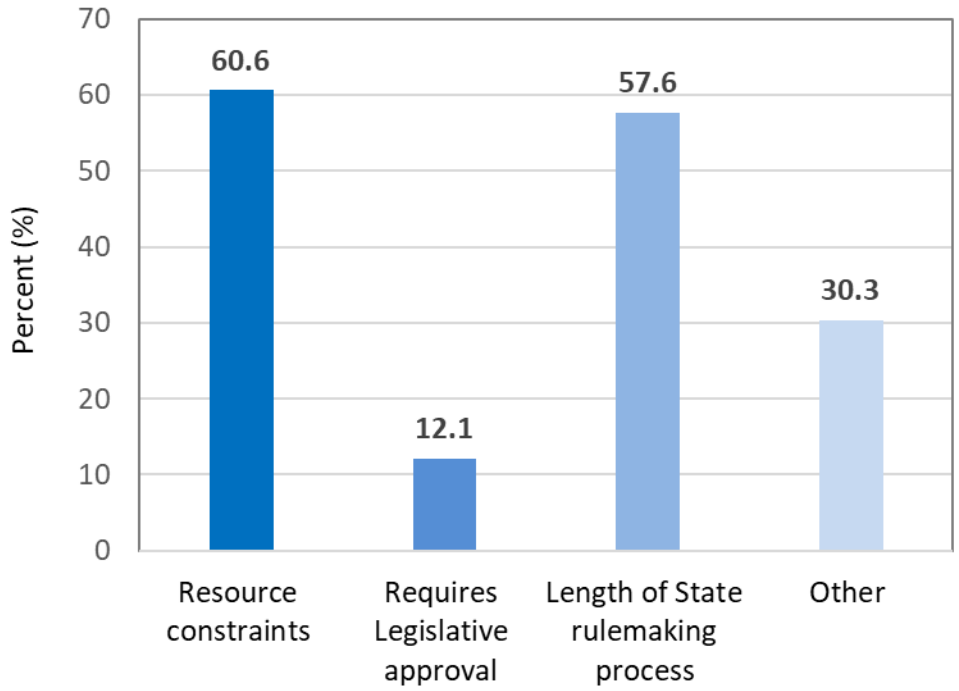

Figure 4. Primary reasons for delay in State adoption of federal regulations (Survey 2)

A final question that clarifies how both State and EPA processes contribute to the time-intensive nature of authorization work asked, "[w]hat are the bottlenecks that cause delay in your authorization work?" (respondents could select multiple answers). "State rulemaking process", delays during "preparation of draft authorization package prior to submittal to EPA", [12] and "EPA review process", were the reasons most responsible for the delay in the authorization process (Figure 5).

[12] Survey 1, Question #22: What are the bottlenecks that cause delay in your Authorization work?

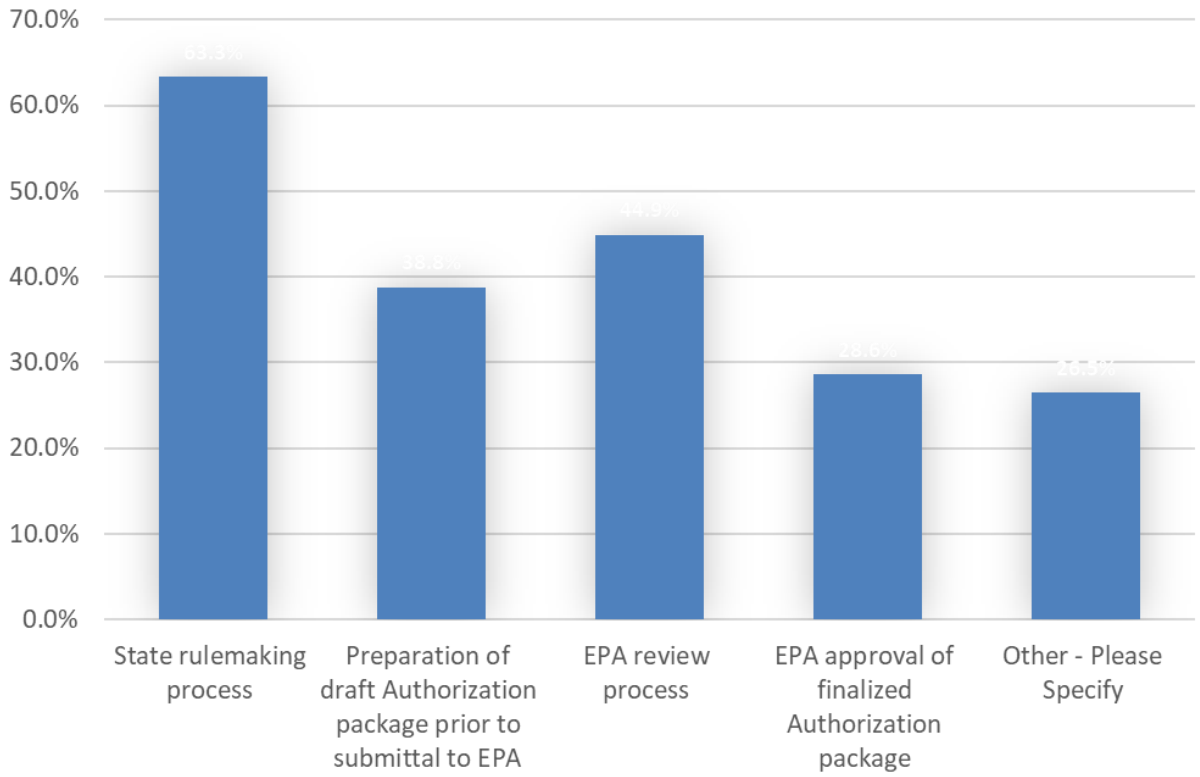

Figure 5. Bottlenecks that cause delay in State authorization work (Survey 1).

The reasons provided in "other" responses included: delays due to attorney general's (AG) office review, EPA funding delays, EPA review process delays, AG's statement preparation/turnover delays at AG's Office, staff turnover/lack of experience/age of previous authorization package, staffing and decision-making, updated program description requirement by EPA, litigation uncertainty, and inability of EPA to designate a timeline. Responses for "further explanation on the bottlenecks causing delays in the authorization process" included the following:

- "Lack of dedicated State resources for the HW Authorization application process and competing priorities in other media leading to delays in preparation of the authorization application. Also, on EPA's end, there was staff turnover that led to further delays as new staff were not familiar with the authorization process."
- "State legislature's meeting every two years."
- "Time-delay in receiving review responses, Staff - juggling other priorities and Staff changes during the review process."
- "The State rulemaking process takes a minimum of 18 months to complete. Staffing turnover, retirements, and shortages at the State and federal levels cause a loss of institutional knowledge and working relationships."

These responses indicate that: 1) the development of the authorization package by the State, including the rulemaking necessary to precede it, and 2) the later EPA review and final approval processes both contribute to circumstances which might slow an otherwise smoother, faster

authorization process. The Task Force acknowledges that the work to make authorization more efficient is a shared task between States and EPA.

4.3 Authorization Process, Communication, and Contractor Issues

Additional survey questions provide insights on a few of the practices that may shorten authorization timeframes and minimize the efforts by both the State and EPA. One such practice is the submittal of draft authorization application packages to EPA prior to formal submittal. The submission of a draft authorization package can identify barriers to approval when revisions are still possible or much easier, such as before a formal rulemaking process is completed or even initiated. When asked, "During your most recent authorization, did your State submit an informal draft application package or any individual application components for EPA review and comment prior to formal submittal?", 88% of States reported "yes". Multiple responses to a question[13] that asked, "Elaborate if necessary", also describe the submittal of a draft package as a common practice among States that can be beneficial in resolving issues and contributing to a smoother or quicker approval by EPA. Though the submittal of draft authorization applications to EPA is a nearly uniform practice among States and could even be considered a national best practice, there has been no published EPA guidance or simpler, less formal instruction to States and EPA regions about how best to approach the draft submittal, review, and comment process for maximum benefit in the minimum amount of time.

Maintaining productive, frequent communication between States and EPA, particularly when authorization applications are at critical points in their development and during the review and comment process, may be considered another best practice. Communication between States and their regional EPA contacts was generally frequent or at least of an adequate frequency when reported by States. When asked "How frequently are you in contact with your regional authorization contact?", 11% of States responded weekly, 25% responded monthly, 44% responded "at an appropriate frequency depending on my State's authorization activity at the time", 6% responded annually, and 14% responded more than annually.

One issue that emerged from the surveys as a possible barrier to communication between States and EPA is contractor use by EPA. Several States reported in Survey 1 that contractor use can impede open communication and possibly add delay to review and approval times[14]. In Survey 2, States were asked, "Does your EPA Region use contractors to review authorization packages? If

[13] Survey 1, Question #16

[14] Survey 1, Question #23. "comment #1: "EPA has now hired a contractor to review our draft regs and checklists, but there is still not much opportunity for timely back-and-forth discussion with EPA."; comment #2: "Rather than comparing our package to the relevant past federal regulations, the assigned contractor staff working for EPA compared our package to the existing set of federal regulations which contained rules that our agency had not adopted yet (e.g., Generator improvement Rule, Pharmaceuticals Rule). As a result, our agency did not follow through with a formal submittal as many of the comments received were irrelevant to the authorization we were seeking"; comment #3: ". . . the draft material was reviewed and approved of during a 7-month process utilizing an EPA sub-contractor for, yet the same material when submitted for final authorization took an additional 15 months to achieve final approval and appear in the Federal Register.

so, are there required timeframes for submission?"[15] Of the total number of respondents, 31% reported "yes" their EPA region uses contractors, 53% reported "no", and 17% reported "unsure". Thus, approximately half of survey respondents may have their authorization packages reviewed by contractors. Only 2 of 11 respondents reported that they had received communication from EPA on required timeframes for contractor review work. Those States reported that authorization packages must be submitted by a certain date in order for the contract to be initiated so the actual review can be conducted the following fiscal year.

4.4 Program Descriptions, Authorization Model Documents, and EPA Guidance

Program Descriptions (PDs) were one specific area in which both quantitative and qualitative survey data suggested a need for greater consistency among EPA regions. This inconsistency leads the R&A Task Force to ask whether long and detailed PDs are necessary after more than 40 years of RCRA Subtitle C implementation at the State level. Extensive PD updates add time to package development and could even act as a barrier to more frequent or timely State authorization application submittals. Both surveys included several questions related to PDs.

In summarizing these results, if there is a single consistent pattern among States' responses relating to PDs, it is probably that of inconsistency. For Survey 1 responses, approximately half of States have current PDs, approximately half do not; approximately 40% of States had submitted recent PDs within the last one to five years, while approximately 27% had not submitted a PD in more than 10 years; approximately half of States reported being asked to submit a new PD with every authorization package and approximately half at various other intervals or "never". The one area of consistency from Survey 1 responses is that States are spending a lot of time developing PDs, with 51% spending 6 months to 2 years and 22% spending longer than 2 years.

Survey 2 responses demonstrated similar inconsistency. The page length of PDs was highly variable with roughly 25% each reporting PDs with lengths at the various surveyed intervals (<50 pages, 50-100 pages, 100-200 pages, 200 pages+). About half of the respondents reported that a full PD was required for every authorization package, while another half reported that something less than a full PD was required. Reasons given by States for when and why a full PD versus a partial PD was required by EPA also varied, but the general pattern was that full PDs were required quite often.

The R&A Task Force believes that narrowing, defining, and establishing clear expectations for States on required PD content and length should be a State and EPA priority given the amount of State time and resources spent on PD development.

The need for updated guidance, templates, streamlined submittal and review processes is borne out by numerous anecdotes provided by respondents. When asked in Survey 2 "[p]lease share any ideas or suggestions for enhancing the authorization process", many respondents requested

[15] Survey 2, Question #9.

increased program consistency, updated guidance and model documents, and process improvements such as electronic document submittal[16].

- "...Development of national standards or best practices in areas such Program Description updates/revisions, frequency/size of State program revision applications, pre-application coordination/communication with EPA...".
- "There needs to be more nationwide consistency and better guidance about the overall authorization process, expected submittal, review and approval timelines, and the content of expected work products".
- "Updated guidance and examples of PDs, memorandums of agreement, and attorney general letters would be helpful".
- "Consider standardizing the EPA authorization application and process nationwide. As currently written, authorization rules allow EPA to ask for any document they want to be included as part of the authorization application. This ask is dependent on EPA region and reviewer. We suggest that electronic submittal of authorization applications be standardized...".

Though the R&A Task Force acknowledges that these State observations are general, we nonetheless hope that these themes can lead to a more focused discussion between States and EPA and aid in development of future Task Force work products. The following sections of this Issue Paper begin that discussion.

5. Impacts of Unresolved Authorization Issues

State authorization survey data presented above identifies the time- and process-intensive nature of State authorization work for both States and EPA as a central theme with several associated impacts.

- The length of time that States devote to program revision application preparation, EPA review and comment processes, and awaiting EPA approval is almost universally measured in years, not months. For 27% of State respondents, these processes took longer than 3 years.
- Authorization requires States to devote considerable staff resources to authorization work, with approximately 1/3 of States having a 1.0 FTE or greater dedicated to rulemaking & authorization duties and approximately 2/3 of States co-assigning other RCRA program implementation duties to those FTEs assigned authorization duties. The time demands of authorization work draw State staff resources from direct regulatory work in areas such permitting, compliance inspections, and enforcement.
- The lengthy authorization cycle can delay adoption and authorization of new federal rules by States. Only 30% of States reported being current with new federal hazardous waste rule adoptions and only about 22% of States reported being authorized for all new hazardous waste rules adopted at the time of the survey. Many States cannot initiate a

[16] Survey 2, Question 11.

new State rulemaking or start a new program revision application while the one under review by EPA is pending final approval.

- Enforcement complexity may occur at the national level when the regulated community operates in multiple States that have adopted and been authorized for different federal hazardous waste rules. This enforcement complexity may also occur within a single State when the regulated community is inspected by EPA and found in violation of a rule promulgated under the authority of the Hazardous and Solid Waste Amendments (HSWA) that is not adopted or authorized by the State as such rules can only be enforced at the federal level until the time of State adoption.

6. Conclusions and Recommendations

The R&A Task Force views States and EPA as partners in achieving process, communication, and consistency improvements that would simplify and streamline authorization work. As demonstrated in State survey data, certain aspects of the time- and process-intensive nature of federal hazardous waste rule adoption and authorization work occur at the State level, such as during State rulemaking processes or preparation of authorization applications prior to EPA submittal. To the extent that successes in one State can be adapted to other States, States must provide this leadership.

The survey data presented above also identifies specific focus areas for ongoing and renewed State and EPA partnership. Many areas, such as States submitting draft applications for review and comment by EPA, are already occurring. Areas for new or renewed engagement between States and EPA include the following:

1. **Reducing Application Review, Comment, and Approval Times**
    a. **Expand Opportunities for Lean Authorization to All Ten (10) EPA Regions**. EPA Regions 1 and 4 have both successfully completed Lean Authorization Processes culminating in approved State program revision applications. These processes were presented at both the 2018 (for the Region 1 Lean process) and 2025 (for the Region 4 Lean process) Authorization Training Conferences. The R&A Task Force encourages EPA to consider the development of specific guidance documents, online how-to modules, or in-person training events so that Lean authorization can be expanded to all States and EPA regions who are interested in using the process.
    b. **Published Guidance, Best Practices, or Other Less Formal Guidelines for Time-Efficient Draft Application Review and Comment by States and EPA**. Submittal of draft authorization applications by States for EPA review and comment at a stage when changes can still be made to the proposed rules and authorization application is a nearly uniform national practice. The R&A Task Force encourages States and EPA to identify any specific best practices in this area, particularly in terms of time efficiencies, and make them nationally available.
    c. **Standardized Federal Register Notice (FRN) Template Use by EPA**. Recent EPA efforts to streamline and standardize FRNs should be continued and expanded. State survey data identified FRN publication as one potential bottleneck

contributing to delay in application approval. Given that a high percentage of States and EPA regions are using draft application review and comment processes to identify and eliminate barriers to approval, it would seem that streamlining the final step of FRN publication would have a positive impact on the authorization process.

2. **Enhancing Communication**
    a. **Transparency in the Use of EPA Contractors for State Program Revision Application Review Work**. State survey data suggested that contractor use by EPA in reviewing authorization applications is both common and, in some instances, can create barriers to communication when States are not allowed periodic, iterative communication with the individual(s) actually reviewing State application work. While States acknowledge that EPA has the authority and discretion to contract portions of its workload to private entities in authorization and other areas, States ask that EPA be transparent in its use of contractors; be clear about any deadlines or other timing issues created by contractor use; and that EPA staff continue to serve as timely communication intermediaries if the State will not be allowed direct communication with the contractor.
    b. **Consider Modern Digital Platforms for Authorization Document Exchange and Tracking**. No nationwide, standardized system for submitting, commenting, and tracking State authorization applications – whether draft or final – is used across EPA regions. Though both the EPA State authorization webpage and the EPA Headquarters' SharePoint site for States and regions serve as useful informational resources, they do not provide specific functionalities for State-EPA communication, document transfer, day counting, and status updating. An existing online EPA product that does contain these functionalities is the Consolidated Data Exchange (CDX) web portal used in the transfer, review, and comment of State Air Quality State Implementation Plans (SIPs) to EPA. A dedicated document transfer system, such as the Air SIP CDX portal with its features adapted for State authorization purposes, would seem to have multiple communication, consistency, clarity, and response time benefits for both States and EPA regions. Alternatively, standardized use of SharePoint for document transfer, review and comment, version history, day counting, calendar integration, task assignment and tracking as is being used by a small number of regions could also achieve the same end.

3. **Updating, Simplifying, and Streamlining Authorization Program Documents**
    a. **Develop a Streamlined, Nationally Consistent Approach to Program Description Revisions**. State survey data demonstrated wide varieties in the amount of content, type of content, and reasons given to States by EPA for why full PD revisions were needed. State survey data also demonstrated that States spent considerable staff time on PD revisions. While the R&A Task Force can appreciate that the instruction applicable to program revision applications in 40 CFR

271.21(b)(1) stating "[t]he State shall submit a modified program description . . . as EPA determines to be necessary under the circumstances" leaves room for discretion and differences in approach between EPA regions, subsequent EPA guidance has not meaningfully clarified or standardized these instructions. After 40+ years of successful RCRA Subtitle C program implementation primarily led by States, it is appropriate to ask, "is there a wider audience for such a time-consuming document that may only ever be read by a handful of State and EPA reviewers?" Similarly, it is also appropriate to ask, "why is a full PD ever required again after base program approval?" The R&A Task Force welcomes a discussion with EPA on alternative types of streamlined PDs, such as standardized PD checklists, PD fill-in-the-blank forms, and other less time-intensive formats for PD revision that remove the discretion of individual reviewers to add increasing PD content and scope requirements which seem to be arbitrarily imposed on some States and not others.

b. **Periodic Streamlining Updates of Model Documents and Authorization Guidance in Consideration of Part 271**. Many of the model documents available on EPA's State Authorization webpage continue to be oriented toward the initial or base program application. Qualitative survey data frequently called for both updated model documents tailored to revision applications and updated authorization-related guidance. The R&A Task Force suggests to EPA that State statutes, administrative regulations, and RCRA rule checklists are the core documents in a program revision application necessary to demonstrate consistency with the federal program. These three types of documents are not even explicitly listed in 40 CFR 271.21(b)(1) as necessary to be included in an application. Many of the other documents in a State program revision application which States spend a large amount of time developing appear to be required simply due to EPA's interpretation of 40 CFR 271.21. The R&A Task Force encourages EPA to consider revisions to or reinterpretations of 40 CFR 271.21 which would update, streamline, and simplify the program revision application process for both States and EPA regions.

4. **Continue Periodic Training Conferences.** The R&A Task Force encourages EPA to continue offering periodic training conferences to help States and EPA regions develop and maintain expertise. The R&A Task Force looks forward to partnering with EPA to develop future training.

In closing, the R&A Task Force thanks the States who responded to its two surveys for sharing their time and experience. The R&A Task Force looks forward to solutions-oriented dialogue with EPA Headquarters and regions on the issues outlined above. Lastly, the R&A Task Force intends to use its initial work product as presented in this Issue Paper to develop several smaller, topic-oriented work products that will seek to improve authorization work for both States and EPA.