



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY


WASHINGTON, D.C. 20460

SEP 26 2019

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

MEMORANDUM

SUBJECT: Resource Conservation and Recovery Act (RCRA) State Authorization Performance Measures

FROM: Barnes Johnson, Director 
Office of Resource Conservation and Recovery

TO: Regional RCRA Division Directors

The authorization of states for all components of the RCRA hazardous waste program provides the essential foundation to sustain regulatory implementation. EPA's success in authorizing states helps to reduce program duplication, reduces burden on the regulated community and on state and federal agencies, increases program protectiveness, and expands state control over their programs. This memorandum establishes a new RCRA state authorization performance measure, the Percentage of Recent Core Program RCRA Rules Authorized, and retains a longstanding performance indicator, the Percentage of Total RCRA Program Rules Authorized. This memorandum also directs the regional offices to develop a goal for FY 2022 for the new measure.

History and Background

The State Authorization Tracking System (StATS) is an information management system designed to document the progress of each state regarding their authorization for the federal hazardous waste regulations. One function of StATS is to provide data on the percentage of required (more stringent¹) rules for which a state is authorized.

Over the past several months, the Office of Resource Conservation and Recovery (ORCR) has worked with regional RCRA authorization staff and management to develop a set of performance measure options to better track authorization program progress and achievement. The selected new measure modifies the existing percentage calculation in StATS to focus

¹ Section 3009 of RCRA prohibits states from imposing requirements which are less stringent than the federal regulations. Thus, states are only required to adopt and seek authorization for more stringent federal regulations and are not required to be authorized for less stringent federal regulations. StATS calculates results only on the required rules.

attention on recent rules that are critical for the core RCRA program for which states have not been authorized, rather than on the larger universe of rules that are administrative or otherwise minor in scope. In addition, ORCR has decided to retain the long-standing percentage calculation to provide continuity with past results.

RCRA State Authorization Performance Measures

The Percentage of Total RCRA Program Rules Authorized provides an indicator of historical progress regarding the broadest set of more stringent rules and the proportion of all rules for which states are authorized. It uses the entire universe (currently 221) of more stringent final rules in StATS as the denominator in the percentage calculation. The rule universe includes the Base Program checklists, all more stringent rules since the Base Program was established in January 1983, and technical corrections and amendments. The numerator is the number of more stringent rules for which the state is authorized. This percentage calculation is familiar to states and regions and is retained for historical comparisons.

The Percentage of Recent Core Program RCRA Rules Authorized measure concentrates on changes to the core RCRA hazardous waste program. The measure represents the proportion of recent more stringent rules for which a state is authorized. The measure’s denominator represents all the more stringent core program final rules promulgated after July 1, 1990 (also known as RCRA Cluster 1). It does not include rules promulgated before July 1, 1990 because virtually all the states are authorized for all the rules finalized before this date and this measure focuses on the remaining authorization work. The measure also does not include minor rule corrections and technical amendments, extensions of LDR national capacity variances, and test method updates.

The measure denominator is 47 as of March 31, 2019.² The numerator is the number of more stringent rules for which the state is authorized. The smaller denominator, compared with the Percentage of Total RCRA Program Rules Authorized performance indicator, enables EPA to better understand the progress states have made in keeping up with authorization, highlight where authorization delays are occurring, and will more clearly demonstrate progress when states are newly authorized. The measure’s universe of Federal Register notices is in Attachment 1 – Percentage of Recent Core Program RCRA Rules Authorized Measure Rule List.

New Performance Measure Goals

Below is a table with progress data regarding the current indicator and new measure:

Measure/Indicator	National Percentage	Regional Range	State Range
Total RCRA Program Rules Authorized	86%	68% to 94%	41% to 98%
Percentage of Recent Core Program RCRA Rules Authorized	71%	51% to 86%	0% to 98%

Every region will develop a regionwide performance goal for FY 2022 for the Percentage of Recent Core Program RCRA Rules Authorized. This measure and goal will be used as a tool to help improve the progress of state authorization of the RCRA Subtitle C program. We

² This denominator will increase in value over time as new rules are promulgated for which states are required to be authorized (for example, the number of rules will be 49 at the end of FY 2019).

understand that each region and state is in a different position with respect to authorization progress and their ability to project improved results. We expect that regions will consider closing the existing gap with full authorization (100%) by at least a third within 3 years. For example, a region with a current average of 73% authorization among its states would increase their average to 82% within three years. Regions are not required to develop goals for the Percentage of Total RCRA Program Rules Authorized performance indicator. ORCR expects that regions will develop their goals by December 31, 2019 and provide them to Wayne Roepe of my staff. Once the regional goals are aggregated, we will review the plan with the OLEM AA.

Regional Reporting

Reporting for the Percentage of Recent Core Program RCRA Rules Authorized measure will be accomplished using the existing StATS information reporting process (see the memorandum dated May 3, 2019, titled “State Authorization Tracking System (StATS) Information Collection Improvements.”) Authorization progress reporting for every state and region has been a feature of StATS for several decades, and this information has been placed on ORCR’s RCRA authorization webpage since 1997. ORCR will continue this public reporting. See <https://www.epa.gov/rcra/regional-authorization-comparison-state-authorization-tracking-system-stats> for the latest data for the Percentage of Total RCRA Program Rules Authorized indicator. The webpage will be updated after the FY 2019 reporting is completed to include data on the Percentage of Recent Core Program RCRA Rules Authorized measure. ORCR will share reports of regional progress on a regular basis.

We appreciate your efforts to implement and report on these measures. If you or your staff have any questions, please contact Wayne Roepe at 703-308-8630, or roepe.wayne@epa.gov.

Attachment

cc: RCRA Branch Chiefs