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**TITLE:** Universe of Wastes for EPA Permit Activities in States Authorized  
for Phase I Only (PLG-82-1)

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Key Words: Authorized States

Regulations: 40 CFR 271.121 (i)(2); 271.128 (a); 264.1; 265.1

Subject: Universe of Wastes for EPA Permit Activities in States Authorized for Phase I Only (PlG-82-1)

Addressee: Program Implementation Guidance Addressees

Originator: Christopher J. Capper, Acting Assistant Administrator for Solid Waste

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Summary:

A State must control a universe of waste that is "nearly identical" to the universe of waste in the Federal regulations in order to be granted interim authorization. The wastes identified or listed by both EPA and the State are considered part of the State's authorized RCRA program; they are the universe of hazardous waste for purposes of Federal activities in that State.

EPA's permitting authority in States with Phase I interim authorization is limited by the States authorized universe, for those States with Phase I authority only, (or those with parts of Phase II authority), EPA may issue permits only to those facilities handling wastes defined as hazardous by the State's authorize programs.

The memo further explores the scope of EPA's permitting activities in regard to authorized States' universes of wastes. The memo notes that with regard to a waste defined as hazardous by EPA but not by the authorized State, a facility handling such waste would not require a RCRA permit or interim status to handle that particular waste until the State has listed that waste.



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

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OFFICE OF  
SOLID WASTE AND EMERGENCY RESPONSE

FIG-82-1

MEMORANDUM

SUBJECT: Universe of Wastes for EPA Permit Activities  
in States Authorized for Phase I Only

FROM: *Christopher J. Capper*  
Christopher J. Capper  
Acting Assistant Administrator (WH-562-A)

TO: PIG Addressees

Issue

What is the universe of wastes which EPA will use to carry out permit activities in a State which has been granted interim authorization for Phase I, but has not yet obtained authorization for Phase II of the Federal program?

Discussion

Since May 19, 1980, regulations promulgated under the Resource Conservation and Recovery Act (as amended) have provided a Federal program of hazardous waste management using the universe of wastes delineated in 40 CFR Part 261.

The decision to grant interim authorization to a State program is contingent, in part, on a State's ability to control a universe of wastes which is "nearly identical" (40 CFR 123.128(a)) to that in the Federal regulations. The nearly identical universe delineated by a State may (during interim authorization) exclude some of the wastes in the Federal universe if those wastes are not handled in that State. Conversely, the universe of wastes as defined by a State may be more inclusive than the Federal universe (40 CFR 123.121(g)(1)). EPA's authorization of a State program covers only that portion of the State's universe which overlaps with the Federal universe (40 CFR