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## RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

JANUARY 88

### 4. Federal Authority Over Authorized States

Does the Regional Administrator always retain oversight authority for State permit issuance or may a State become completely autonomous if it has final approval for all phases of its RCRA program?

Section 3006(c)(4) of HSWA provides that in the case of an authorized State program, until such program is amended to reflect the amendments made by the Hazardous and Solid Waste Amendments of 1984 and such program amendments receive interim or final authorization, the Administrator shall have the authority in such States to issue or deny permits or those portions of permits affected by the requirements and prohibitions established by the Hazardous and Solid Waste Amendments of 1984. The Administrator shall coordinate with States the procedures for issuing such permits.

Even if a State has final authorization of all phases for its RCRA program, however, the Administrator always retains a statutory oversight authority for such programs. Section 3006(e) of RCRA authorizes the Administrator to withdraw approval of any State program where, after public hearing, it is determined that the State is not administering and enforcing its program in accordance with the requirements of Section 3006. After notifying the State, the Administrator may withdraw authorization for the State program if corrective action measures are not taken within a reasonable time, not to exceed 90 days. further, 40 CFR Section 271.8(a) provides that any State seeking to administer a program shall submit a Memorandum of

Agreement (MOA) executed by the State Director and the Regional Administrator. Such Memorandum of Agreement shall not contain provisions which restrict EPA's statutory oversight responsibility. The Administrator

may also comment on permits and draft permits pursuant to 40 CFR Section 271.19 and Section 271.8 and Section 3008(a)(3) permits the Administrator to revoke permits. Finally, Section 7003 permits the Administrator to take action in cases of imminent and substantial endangerment notwithstanding other provisions of the Act, including State authorization.

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