

Commissioner McGaffigan's Comments on COMSECY-98-037:

I approve the staff's proposal to assist the U.S. Environmental Protection Agency (EPA) in their efforts to allow the disposal of mixed waste in facilities permitted to accept hazardous waste under the Resource Conservation and Recovery Act (RCRA), while not requiring that these facilities be licensed by NRC pursuant to [10 CFR Part 61](#). I also approve the draft letter to EPA subject to the attached edit which provides an example of where establishing a reference dose for mixed waste could duplicate or be inconsistent with other ongoing NRC/EPA efforts to manage the solid waste stream.

While I am sensitive to the concern raised by Commissioner Dicus that NRC maintain its position that a single, all-pathways radiation protection standard is the appropriate approach to standards setting, I do not interpret our support to EPA or EPA's proposed approach to mixed waste to be contrary to NRC's approach based on the information provided. Indeed, EPA's terminology could just as easily be interpreted to be an all-pathways approach which considers the dominant pathway in each case. For example, the dominant exposure pathway for off-site is groundwater while the dominant exposure pathway for on-site is direct exposure. In addition, EPA proposes to establish a higher on-site reference dose based on the low probability of an "intruder resident scenario" sometime into the future in the event that institutional controls fail. For these reasons, I support sending the draft letter to EPA, as edited, to indicate NRC's willingness to assist EPA in these matters. The staff should keep the Commission informed of the status of these issues and, in particular, if new insights or information is gained regarding EPA's "reference dose" approach.