

April 6, 1999

MEMORANDUM TO: William D. Travers  
Executive Director for Operations

Karen D. Cyr  
General Counsel

FROM: Annette Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - SECY-99-049 - COMPATIBILITY  
OF AGREEMENT STATE PROGRAMS THAT PROHIBIT  
THE DISPOSAL OF MIXED WASTE

The Commission has disapproved the staff's recommendation that Agreement State programs that prohibit the disposal of mixed waste are compatible with NRC's regulatory program at this time. The staff should keep abreast of activities by the Conference of Radiation Control Program Directors in their efforts to develop criteria to allow the disposal of mixed waste and keep the Commission informed on these matters. The staff should also keep the Commission informed of progress in the technical assistance being provided to EPA in an effort to provide increased flexibility in permitting LLW disposal facilities to accept mixed waste pursuant to the Resource Conservation and Recovery Act (RCRA).

The Commission requests Office of General Counsel (OGC) interpretation of the legal requirements and the potential ramifications of each option discussed in SECY-99-049, and any additional option which OGC believes may be appropriate. In particular, the analysis should include a discussion of whether the NRC has the authority to require Agreement States to allow for disposal of mixed waste, and consider the merits of deferring a decision pending a more satisfactory resolution of the mixed waste problem at the Federal level.

(OGC/EDO)

(SECY Suspense:

7/30/99)

cc: Chairman Jackson  
Commissioner Dicus  
Commissioner Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
OGC  
CIO  
CFO  
OCA  
OIG  
OPA  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR  
DCS