

Mr. William Phinney
15 Lee Street
Wiscasset, ME 04578

November 23, 1999

**SUBJECT: FEDERAL PREEMPTION OF TOWN OF WISCASSET SOLID WASTE
ORDINANCE**

Dear Mr. Phinney:

I am responding to your letter of October 19, 1999, which asked if there is Federal or State preemption of the solid waste ordinance for the Town of Wiscasset. Because you did not include a copy of the ordinance, I am responding in general terms. Under the Atomic Energy Act (AEA), the U.S. Nuclear Regulatory Commission (NRC) has preemptive regulatory authority over the ownership, possession and use of source, byproduct and special nuclear material, and also production and utilization facilities, as described in the AEA. States and their subdivisions may regulate the storage, management, and disposal of materials other than AEA materials. Preemption questions or problems frequently arise when there is a conflict between the controlling NRC requirements and State or local laws that affect the ownership, possession, and use of AEA materials or facilities that the NRC and its Agreement States regulate. The NRC will license and regulate under its AEA authority and will ensure that its licensing and regulatory requirements are satisfied. In order to provide a more definitive response to your inquiry, it would be necessary to review a copy of the cited ordinance and any other applicable State or municipal statutes associated with the conflict.

I trust that this letter responds to your concerns.

Sincerely, **Original Signed by**

Carl J. Paperiello

Carl J. Paperiello

Deputy Executive Director for Materials
Research and State Programs

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NAME	RNelson/cv	EKraus	LCamper	NStArmour	JGreeves
DATE	11/ 10/99	11/10/99	11/15/99	11/ 12 /99	11/19/99
OFC	NMSS	DEDMRS			
NAME	Wkane	CPaperiello			
DATE	11/ /99	11/23/99	11/ /99	11/ /99	11/ /99

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99-211

TICKET NO. E-G1990531

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PDR STPRG

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Deputy Executive Director for Materials
Research and State Programs

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for OEDO and for those
highlighted. Please make
remaining distribution.

Thanks, Susan

OEDO, 11/24/99

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DATE	11/ /99	11/23/99	11/ /99	11/ /99	11/ /99

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ACNW: YES ___ NO ___

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SBurns KCyr



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

November 23, 1999

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Sincerely,

A handwritten signature in cursive script, appearing to read "Carl J. Paperiello".

Carl J. Paperiello
Deputy Executive Director for Materials
Research and State Programs

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SUBJECT: FEDERAL PREEMPTION OF TOWN OF WISCASSET SOLID WASTE ORDINANCE

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DATE	11/ 10/99	11/10/99	11/15/99	11/ 12 /99	11/19/99
OFC	NMSS	DEDMRS			
NAME	Wkane <i>Wkane</i>	CPaperiello			
DATE	11/29/99	11/ /99	11/ /99	11/ /99	11/ /99

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Sincerely,

John T. Greeves, Director
 Division of Waste Management
 Office of Material Safety
 and Safeguards

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DATE	11/ 10/99	11/10/99	11/15/99	11/ 12 /99	11/19/99
OFC	NMSS	DEDMRS			
NAME					
DATE	11/ /99	11/ /99	11/ /99	11/ /99	11/ /99

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ACNW: YES NO

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It is not appropriate for the NRC to comment on a State preemption issue.

I trust that this letter responds to your concerns.

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Deputy Executive Director for
Materials, Research and
State Programs

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OFC	NMSS <i>[Signature]</i>	DEDMRS			
NAME					
DATE	11/ /99	11/ /99	11/ /99	11/ /99	11/ /99

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NAME					
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Regarding State authority, it is not appropriate for the NRC to comment on a State preemption issue. However, we can provide you with the following information:

Mr. Jay Hyland, Program Manager
Radiation Control Program
Division of Health Engineering
10 State House Station
Augusta, ME 04222-0010
207-287-5677

I trust that this letter responds to your concerns.

Sincerely,

Carl J. Paperiello
Deputy Executive Director for
Materials, Research and
State Programs

cc: J. Hyland

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NAME	RNelson/cv	EKraus	LCamper		
DATE	11/10/99	11/10/99	11/ /99	11/ /99	11/ /99
OFC	DWM	NMSS	DEDMRS		
NAME					
DATE	11/ /99	11/ /99	11/ /99	11/ /99	11/ /99

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