

**From:** Norman St. Amour  
**To:** Robert Nelson  
**Date:** Fri, Nov 12, 1999 8:54 AM  
**Subject:** Re: Maine Preemption Issue

After I received your latest draft of the Maine letter it was decided to send the letter up to Joe Gray for a second review. Here are the new changes resulting from this review:

Paragraph 1:

In the third sentence change the word "can" to "frequently" and the word "whenever" to "when."

In the same paragraph delete everything after the word "satisfied" in sentence number 4 and end the paragraph at that point.

Paragraph 2:

This sentence would better read "It is not appropriate for the NRC to comment on a State preemption issue."

There is no need to provide contact information as it is the individual's responsibility to determine who the appropriate state official is.

Subject to the incorporation of these changes into the letter OGC has no legal objection to the letter being sent. Please send me an email of the revised draft once completed.

Thanks

Norman.

15 Lee Street  
Wiscasset, ME 04578

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 of 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 <sup>also</sup> production and utilization facilities as described in the AEA. Preemption questions or problems can arise whenever 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. <sup>the NRC</sup> will license and regulate under its AEA authority and will ensure that its licensing and regulatory requirements are satisfied. Ordinarily, the NRC does not become involved in preemption issues, <sup>the Court asks it to, or unless it</sup> unless ~~asked by the court or if the NRC~~ determines that the ordinance may undermine NRC regulations.

Regarding State authority, it is not appropriate for the NRC to comment on a State preemption issue. State contact information ~~is as follows~~:

*However, we can provide you with the following*

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,

This document should  / should not  be made available to the PUBLIC \_\_\_\_\_ 11/ /99.

ACNW YES  NO   
TICKET NO. E-G1990531

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*(2)*

To: Robert Walden, NRCC

Fax: 301-415-5398

Ph: 301-415-7298

From: Susan Kraus, NRCC, DC.

Fax: 202-527-5133

Phones: 301-415-7800 (2)  
202-363-6433 (1)

Total pp. (2)

(1)

**ACTION**

EDO Principal Correspondence Control

FROM:

DUE: 11/18/99

EDO CONTROL: G19990531

DOC DT: 10/19/99

FINAL REPLY:

William Phinney  
Wiscasset, Maine

TO:

Paperiello, DEDMRS

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO:

Paperiello, DEDMRS

DESC:

STATE OR FEDERAL PREEMPTION OF THE TOWN OF  
WISCASSET, SOLID WASTE ORDINANCE

ROUTING:

Travers  
Paperiello  
Miraglia  
Norry  
Blaha  
Burns  
Cyr, OGC

DATE: 10/22/99

ASSIGNED TO:

CONTACT:

NMSS

Kane

SPECIAL INSTRUCTIONS OR REMARKS:

Dwm Action  
Due to NMSS Director's Office  
By 11/15/99  
rec'd 10/25/99

~~ACTION~~ Completed  
~~Due to NMSS~~  
~~Director's Office~~ 11/12/99

JG  
JJA

Spec. Projects  
Set.  
AK  
10/29/99

Rec'd 10/26 pm Jm PM JJA