

April 6, 1999

MEMORANDUM William D. Travers
TO: 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)
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