

PPC 9541.1986(14)

JURISDICTION AND REGULATION OF MIXED WASTE MANAGEMENT
INCLUDING INCINERATION AND LOCATION CRITERIA

THE ADMINISTRATOR

July 3, 1986

Ms. Carol C. Amick
Senate Chairman
Special Legislative Commission on
Low-Level Radioactive Waste
The Commonwealth of Massachusetts
Boston, Massachusetts 02133

Dear Ms. Amick:

This is in response to your June 3, 1986, letter requesting the Environmental Protection Agency's (EPA's) position on the management of "mixed wastes", i.e., wastes that contain hazardous as well as source, special nuclear or byproduct material as those terms are used in the Atomic Energy Act (AEA). In your letter, you raise concerns about the jurisdictional issue of mixed waste management.

I first want to note how pleased I am that your Special Commission is proceeding with identifying the particular low-level mixed waste streams in Massachusetts. This will, of course, facilitate resolution of any technical issues that might arise in the future.

In particular, you asked my views on three areas of concern to the Special Commission: (1) State jurisdiction over mixed wastes; (2) regulation of incineration of mixed waste; and (3) the effect of State compacts if EPA receives sole (federal) jurisdiction over mixed wastes.

EPA considers the hazardous waste component of all mixed waste streams to be subject to the Resource Conservation and Recovery Act (RCRA). However, no States have yet been authorized under RCRA for these mixed wastes. A notice is to be published shortly in the Federal Register advising States, such as Massachusetts, with RCRA final authorization that they have one year from the date of the notice (or two years if a statutory amendment

is required) to demonstrate authority to regulate the hazardous components of mixed wastes. In the interim, States which already have existing laws which regulate mixed wastes may enforce those laws under their own authorities.

Incineration of mixed waste must meet applicable requirements under RCRA for the hazardous constituents as well as applicable requirements under the Clean Air Act and the AEA for the radioactive constituents. Current requirements under the AEA consist primarily of NRC licensing requirements; however, EPA's forthcoming low-level waste regulations will likely address incineration as a method of handling wastes containing AEA-regulated radionuclides.

In response to your last question, EPA does not foresee receiving sole jurisdiction over mixed wastes. RCRA facilities are not designed to address radioactive hazards. Thus, any potential for a prohibition on disposal of mixed wastes at NRC facilities or a lack of sufficient disposal capacity at NRC facilities (because of closing of existing sites and failure to identify new sites under State compacts) could affect the safe disposal of mixed wastes.

It is, therefore, EPA's position that it will authorize States pursuant to RCRA to regulate the hazardous components of the mixed waste, while NRC will continue to regulate the low-level radioactive components. In that case, there should be no effect on the already existing States compacts' language.

With regard to the AEA's 1993 deadline requiring States to develop commercial low-level radioactive waste sites, EPA will provide guidance to clarify hydrogeologic characteristics for locating sites. To assist the States in site selection, EPA's location guidance will be available this summer, and final regulations on location standards will be promulgated in 1988.

In summary, EPA is proceeding to authorize States under RCRA to regulate the hazardous components of mixed wastes. If we find the application of the RCRA regulations would increase radiation hazards or otherwise would be inconsistent with AEA requirements, we will modify or waive the RCRA requirements under Section 1006 of RCRA.

-3-

If you have further questions, please contact Bruce Weddle,
Director, Permits and State Program Division, at 9202) 382-4746.

Sincerely,

Lee M. Thomas

cc: Honorable Edward Markey
Michael Deland, EPA, Region I
Commissioner Silva, Mass. DEQE
Commissioner Walker, Mass. DPH