

public health and safety and the environment. In carrying out this policy, the NRC is guided by broad "performance goals" that include:

(1) Maintain safety, protection of the environment, and the common defense and security;

(2) Increase public confidence in our regulatory process;

(3) Make NRC's activities and decisions effective, efficient, and realistic;

(4) Reduce unnecessary regulatory burden on stakeholders.

As discussed in NUREG-1614, protection of public health and safety is paramount among the NRC goals and it is likewise our principal goal in controlling the disposition of solid materials. We also recognize that, in considering alternatives in this area, our decision-making process needs to provide stakeholders with clear and accurate information about, and a meaningful role in, the process. In addition, any requirements we promulgate in this area must not impose unnecessary regulatory burdens beyond what is necessary and sufficient for providing reasonable assurance that public health and safety will be protected.

7. Alternatives for Controlling the Disposition of Solid Materials

Paths by which solid materials with no, or very small amounts of, radioactivity could leave a licensed facility fall into general disposition categories of "release" or "disposal." A set of preliminary alternatives for controlling the disposition of solid materials along these paths was first described in an NRC Issues Paper published for public comment in the **Federal Register** (FR) on June 30, 1999 (64 FR 35090); these alternatives are summarized here:

A. Release: In this disposition path, solid materials could be released into general commerce if a radiation survey verifies that public health and safety is protected and if the materials have some benefit in either a recycled or re-used product. Alternatives for control include:

(1) *Unrestricted use:* Unrestricted use means that solid materials could be released for any use in general commerce after a radiation survey verifies that an allowable level has been met.⁵ Two unrestricted use alternatives are:

Alternative 1: Continue NRC's current approach (see Section II.3) which allows

unrestricted use based on existing guidance on survey capabilities;

Alternative 2: Amend the NRC's regulations to include a dose based criterion for unrestricted use.

(2) *Conditional use (Alternative 3):* In this alternative, solid material could be released but its further use would be restricted to only certain authorized uses with limited public exposures such as use in controlled or low exposure environments. Examples might include industrial uses such as metals in bridges, sewer lines, or industrial components in a factory, or concrete in road fill.⁶

B. Disposal: In this disposition path, solid materials would be prohibited from general commerce and isolated from the public. Alternatives⁷ for control include:

(1) *Landfill disposal (Alternative 4):* In this alternative, solid material would be prohibited from general commerce by requiring it to be placed in an EPA-regulated landfill;

(2) *NRC/Agreement State (AS)-licensed low-level waste (LLW) disposal site (Alternative 5):* In this alternative, solid material would be prohibited from general commerce by requiring it to be placed in an NRC/AS-licensed LLW disposal site and regulated under the NRC's regulations in 10 CFR Part 61.

III. Summary of Efforts to Date and What NRC Has Learned About Alternatives

1. Efforts to Date To Examine Alternatives

The NRC's Issues Paper, published in the FR for public comment in June 1999, indicated that NRC was examining its alternatives for controlling the disposition of solid materials. To provide further opportunity for public input, NRC held a series of four public meetings during the fall of 1999.

The NRC received over 800 public comment letters from stakeholders representing the metals, metal scrap, and concrete industries; citizens groups; licensees and licensee organizations; landfill operators; Federal and State agencies; and Tribal governments. Comments were also received from stakeholders at the four public meetings. Comments were sharply diverse in the

⁶ Other terms have been used for this alternative, including "conditional clearance" and "restricted use." However, the term "Conditional use" is deemed more appropriate and is used throughout the remainder of this document.

⁷ Other terms have been used for this alternative, including "prohibition" and "no release." The alternatives listed here are considered to be clearer in that they provide more information as to the destination of the material and hence are used throughout the remainder of this document.

views expressed, and there was support and rationale provided by commenters for a range of alternatives for controlling the disposition of solid materials.

On March 23, 2000, the NRC staff provided the Commission with a paper (SECY-00-0070) on the diversity of views expressed in public comments received on the Issues Paper. Attachment 2 of SECY-00-0070 provides a summary of views and comments received; summaries of the comments can also be viewed in NUREG/CR-6682, "Summary and Categorization of Public Comments on the Control of Solid Materials" (September 2000). SECY-00-0070 also provided the status of the staff's technical analyses being developed as support for making decisions in this area and noted the related actions of international and national organizations and agencies that could be factors in NRC's decision-making.

To solicit additional input, the Commission held a public meeting on May 9, 2000, at which stakeholder groups presented their views and discussed alternatives for controlling the disposition of solid materials.

On August 18, 2000, the Commission decided to defer a final decision on whether to proceed with rulemaking and directed the staff to request that the National Academies conduct a study of alternatives for controlling the disposition of solid materials. The Commission also directed the staff to continue to develop technical information and to stay informed of international and U.S. agency activities in this area.

The National Academies study of alternatives for controlling the disposition of solid materials was initiated in August 2000. As part of the study, the National Academies held three information gathering meetings in January, March, and June of 2001, at which it obtained input from various stakeholder groups similar to those that presented information to the NRC earlier. Based on these meetings, and on its deliberations on this topic, the National Academies submitted a report to the NRC in March 2002. The report contains nine recommendations on the decision-making process, potential approaches for controlling the disposition of solid materials, and additional technical information needed. In particular, the National Academies report indicates that NRC's current approach for controlling the disposition of solid materials protects public health and does not need immediate revamping. However, the National Academies report also states that NRC's current approach is

⁵ The term "clearance" is also used by various organizations and in various documents to mean removal from regulatory control of material that meets certain release criteria.