

licensed facilities from entering general commerce thus limiting the potential for radiation dose to the general public. Opponents of this approach cite the National Academies study and the NCRP which both indicate that 10  $\mu$ Sv/yr (1 mrem/yr) levels are trivial for health reasons and, therefore, a requirement for a general prohibition would have minimal positive health impact.

*(b) Issues related to regulatory burden:*

A principal comment regarding Alternative 5 is that requiring all material, even that which has no, or very small amounts of, radioactivity but which has some economic value, to be sent to NRC/AS-licensed LLW disposal sites would be costly to licensees, in particular smaller entities like hospitals, without an accompanying health and safety benefit. However, a regulation limiting disposal of these materials to an EPA-regulated landfill would have much smaller costs than disposal at a licensed LLW disposal site and place much smaller economic burden on licensees for controlling the disposition of solid materials.

*(c) Issues related to concerns over feasibility of landfill disposal:*

Some commenters expressed concern about the viability of landfill disposal, noting that a regulatory system of restrictions to limit solid materials would have to consider NRC, EPA, and State responsibilities. Also, it is not clear how restrictions would work to limit where material goes, and it is not clear that landfill operators would accept solid material released from NRC-licensed facilities.

(3) *Summary*—An alternative in which all material from a licensed facility is prohibited from release and instead disposed of either at an EPA-regulated landfill or an NRC/AS-licensed LLW disposal site would keep additional radioactivity out of general commerce, although would be likely more costly than unrestricted or conditional use. If all solid material is required to be disposed of at NRC/AS-licensed LLW sites, the economic burden imposed might be large, especially on small licensees, and the health benefit obtained would likely be small. The economic burden of disposing of this solid material in an EPA-regulated landfill should not be as large. However, some of the same concerns noted in Section III.2.C, above, would also exist for the landfill alternative, in particular regarding whether there would be assurance that the material would not be diverted from, or taken from, the landfill, and also whether landfills would accept all this

material. EPA, in cooperation with the NRC, is considering a rulemaking that could permit disposal of certain NRC regulated material in a RCRA permitted facility subject to, if necessary, an appropriate NRC approval process (e.g., a site-specific or general license, or exemption). EPA is working with NRC on an EPA Advance Notice of Proposed Rulemaking to solicit stakeholder comment on disposing of such materials in a RCRA regulated facility.

#### **IV. Current Status of Efforts and Request for Additional Information**

As discussed in Section III.1, there has been extensive and wide-ranging discussion of alternatives for controlling the disposition of solid materials as part of NRC and other organizations' efforts. Substantial and substantive information has been developed and input received on potential impacts of the various alternatives on public health and regulatory burden. NRC has received over 800 comment letters and held several public information meetings on controlling the disposition of solid materials. In addition, the National Academies conducted a study on this subject during which they held several information gathering meetings open to the public, and several scientific organizations are conducting studies and/or developing standards in this area.

Based on the National Academies report and on other factors affecting decision-making, the NRC staff developed a set of options for a regulatory process for examining alternatives for controlling the disposition of solid materials and presented these regulatory options to the Commission in SECY-02-0133 on July 15, 2002. Based on this information, the Commission, on October 25, 2002, directed the NRC staff to proceed with an enhanced participatory rulemaking to develop specific requirements for controlling the disposition of solid materials at licensed facilities. Subsequently the staff prepared a plan for conducting this rulemaking which the Commission approved on January 27, 2003.

In directions to the NRC staff, the Commission noted that the rulemaking should give fair consideration to all alternatives in developing a proposed rule so that a broad range of alternatives is identified and can be weighed by the Commission. In particular, the Commission indicated that the NRC staff should seek stakeholder participation and involvement in considering alternative approaches. The Commission noted that, in approaching stakeholders on this issue, the staff

should reiterate the Commission's continuing support for the release of solid materials when there are no significant health consequences. This is consistent with the NRC's agency mandate to ensure that the nation's use of radioactive materials is carried out in a manner that protects the public health and safety and the environment.

In its direction to the staff, the Commission noted the considerable information on controlling the disposition of solid materials previously collected (see Section III.1) and indicated that, rather than duplicating these efforts, the staff should build on this existing information (including the concerns and comments expressed in public comment) and utilize it as a starting point to focus on potential solutions. In particular, the Commission directed the staff to explore increased use of web-based methods for interacting with stakeholders for issues that might not warrant additional discussion at a workshop, and to focus additional workshops on areas where substantial new input is needed.

With regard to Alternatives 1, 2, and 5 (no action, unrestricted use, and disposal in NRC-regulated LLW disposal sites), the efforts described in Section III.1 have provided substantial information. However, NRC is interested in obtaining any additional information, beyond that expressed earlier, that should be considered for each of the types of materials noted in Section II.1. This includes areas where:

(a) There has been modification of the views that have been expressed in earlier public comments on any of the alternatives;

(b) additional scientific information is available with regard to any of the alternatives;

(c) additional economic information is available with regard to any of the alternatives;

(d) there are new or modified alternatives beyond those discussed above.

In certain other areas, in particular with regard to Alternative 3 (conditional use) and Alternative 4 (EPA regulated landfill disposal), earlier information collection efforts did not obtain sufficient information to clearly indicate the viability or economic feasibility of these alternatives. Although these alternatives were noted by the National Academies report as potential methods for controlling the disposition of solid materials, earlier public comments raised concerns about their viability. Thus, the Commission specifically directed the staff to explore and document the feasibility of these alternatives and, in particular, noted