

that the staff should have discussions with stakeholders with regard to whether the alternatives: (1) Are effective; (2) are reasonably possible to implement; and (3) would increase public confidence in the process. To further consider these issues, input on the following questions is requested for each of the types of materials noted in Section II.1:

*With regard to conditional use:*

(1) The intent of the conditional use alternative is that solid material would be restricted to only certain authorized uses and kept separate from general consumer uses. Consideration needs to be given as to whether this alternative can: (a) Provide assurance that solid material goes to its authorized use and is not diverted to unrestricted use and (b) be established and implemented in a manner that is both practical and economical. Specific questions are:

(a) Can a scrap/manufacturing/distribution process that is not licensed by NRC provide assurance that the material is limited to its authorized use?

(b) Would it be necessary for NRC to maintain regulatory control by licensing all or some portion of the process (e.g., only the scrap process or the scrap and manufacturing process)? Could involvement by another Federal Agency in the scrap/manufacturing/distribution process provide assurance that the material remains with its authorized use? What are the feasibility, cost, and increased assurance aspects of NRC or other Federal agency involvement?

(c) What are the feasibility, economic, and assurance aspects of a smelter facility being dedicated to such material, either full-time or as a portion of its process capability?

(d) What end use products could be manufactured under such a conditional use, e.g., bridge girders, sewer pipes, industrial coils? Would there be sufficient need for these products so that a process to manufacture them would be viable given the magnitude of material from NRC/AS licensed facilities and/or from other facilities having similar material?

(e) What typical lifetimes might the conditional (authorized) uses have, and what would likely happen to the solid material after the lifetime was over? Could the material continue to be part of a conditional use, or would it become available for unrestricted use?

(2) What criterion of acceptability should be used before allowing release of solid material to a conditional use (e.g., should dose-based or concentration-based criterion be used and what should it be?)

*With regard to landfill disposal:*

(1) The intent of the landfill disposal alternative is that the solid material be isolated from the public, and not be diverted to unrestricted use, either in transit or after disposal. Specific questions are:

(a) Would placing the material in a RCRA Subtitle C site accomplish the goal of isolating the material from the public? If so, what controls are in place in a RCRA Subtitle C site to provide such assurance?

(b) Would placing the material in a RCRA Subtitle D landfill accomplish the goal of isolating the material from the public? If so, what controls are in place in a RCRA Subtitle D site to provide such assurance?

(c) What criteria of acceptability should be used before allowing disposal of solid material at a landfill such that the public and landfill workers are protected? In particular, should a different regulatory scheme be used depending on the radioactivity level of the material potentially to be placed in the landfill facility, i.e. lesser requirements if the potential dose is lower?

(d) Is it necessary for NRC to maintain regulatory control to achieve the desired isolation of NRC regulated material from the public? If so, is there a need for NRC to license a RCRA landfill either under a specific or general license, or is an exemption with specific conditions adequate to cover material that has come from NRC-licensed facilities?

What cost considerations need to be taken into account and what possible additional assurance of isolation might be realized under these regulatory approaches?

(2) If EPA and/or NRC rulemaking is developed in this area, would RCRA Subtitle C or Subtitle D landfill operators accept material which had been surveyed and released from a NRC-licensed facility?

*For either conditional use or landfill disposal*

(1) As a backup, should a "cap" be placed limiting the dose that would occur if the restrictions for the conditional use became no longer effective, or if the material being disposed of at a landfill was diverted or removed from the landfill, and the material wound up in an unrestricted use? If so, what should the cap value be?

## V. Request for Comment and Announcement of Workshop

To provide opportunity to discuss the issues noted in Section IV, we invite written and electronic comment. To supplement this request for comment, we also plan to hold a workshop on May 21–22, 2003, at NRC headquarters to

discuss the alternatives. The workshop agenda will afford an opportunity to discuss the National Environmental Policy Act (NEPA) process (see Section VI of this FRN) and the alternatives being considered, with specific emphasis on building on NRC's earlier information collection efforts (see Section III.1). Because these earlier efforts did not obtain sufficient information to clearly indicate the viability of conditional use or landfill disposal, the workshop will focus on the feasibility of these alternatives as discussed in Section IV above, in particular with regard to the questions raised in Section IV. The first half of the first day of the workshop will focus on background, the NEPA process, and the alternatives being considered for controlling the disposition of solid materials. The second half of the first day and the majority of the second day of the workshop will focus on conditional use and landfill disposal. A detailed agenda will be made available in advance of the workshop. In doing so, we will be receptive to a range of options or scenarios for conditional use or landfill disposal to determine the feasibility of these options that (1) are effective, (2) are reasonably possible to implement, and (3) would increase public confidence in the process.

## VI. Scoping Process for Environmental Impact Statement

An environmental scoping process was initiated in June 1999 as part of issuance of the Issues Paper. The rationale for combining the two efforts was that issues raised in a scoping process and in the Issues Paper were similar and therefore it was an efficient use of stakeholder's time and energies to combine the two. As noted earlier, in August 2000 the Commission decided to defer a rulemaking in this area pending a study by the National Academies of alternatives for controlling the disposition of solid materials. Following completion of that study in March 2002, the Commission decided, in October 2002, to conduct an enhanced participatory rulemaking which considers alternatives for controlling the disposition of solid materials. Hence, this FRN provides an opportunity to announce this rulemaking effort and to re-open the earlier scoping process.

In a rulemaking, the Commission must consider the effect of its actions on the environment in accordance with the National Environmental Policy Act (NEPA). Section 102(1) of NEPA requires that the policies, regulations, and public laws of the United States be interpreted and administered in accordance with the policies set forth in