

development. We welcome information on:

- The effectiveness of various non-regulatory programs at achieving their stated goals
- The relative cost of implementing a non-regulatory vs. regulatory program
- The ease of implementing a non-regulatory vs. regulatory program
- Whether existing non-regulatory programs could be used to address LARW

D. Questions for Public Comment: Non-Regulatory Alternatives to Our Disposal Concept

1. In general, do you think that a non-regulatory approach could be effective at addressing the problems associated with management and disposal of low-activity radioactive waste? Why or why not? (section IV)

2. What has been your experience with EPA non-regulatory programs, such as those described in section IV.A.2? Which programs have been most effective? Why?

3. What is your experience with non-regulatory programs at other Federal or State agencies?

4. Do you see particular aspects of LARW management and disposal that could not be addressed outside of

regulatory action? Aspects that would be particularly amenable to non-regulatory action?

5. Is guidance a viable mechanism to support proper management of LARW? Who should develop such guidance? What topics should it cover? (IV.B.1)

6. Would a “best practices” approach to management of LARW give generators and disposal facilities sufficient support to ensure proper management practices? Would incentives to adopt a “code of conduct” be necessary? Could such a “code” encompass the wide range of generating processes and waste characteristics? How would regulators view such an approach? (IV.B.2)

7. What other non-regulatory approaches might be appropriate to address LARW management?

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether a regulatory action is “significant” and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive

Order defines “significant regulatory action” as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

OMB has determined that this Advance Notice of Proposed Rulemaking is “non-significant” according to the criteria of Executive Order 12866.

Dated: November 4, 2003.

Marianne Lamont Horinko,
Acting Administrator.

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