
High Level Waste Corporate Board

Section 3116 A Headquarters Perspective

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Section 3116 vs. DOE Order 435.1

- From a technical perspective, the criteria are essentially identical
- Both paths provide a methodology to treat and manage waste incidental to reprocessing as non-HLW
- Section 3116 can only be applied in the states of South Carolina and Idaho
- For consistency, all future WIR Evaluations will be modeled after the Section 3116 process
- One key difference is the regulatory responsibility of the NRC, especially regarding monitoring



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NRC vs. DOE Cultural Differences

- NRC very motivated to be public and transparent – does not like agency-to-agency meetings
- DOE does not like NRC treating us like a licensee
- Under 3116, DOE has legal liability up to WD; NRC has legal liability for monitoring



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Original Policy Issues

- Generic Technical Issues
 - All Closed
- Site-Specific Technical Issues
 - All Closed



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Continuing Policy Issues and Questions

- To what degree will NRC participate in non-3116 WDs?
- To what degree will non-3116 meetings be public?
- To what degree will NRC exceed their scope in monitoring activities?
- To what degree will NRC continue scoping activities with our sites?



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NRC Role Under 3116

- Consultation on WD/PA [Section (a)]
 - RAIs, TER, public meetings
- Monitoring [Section (b)]
 - NRC, in coordination with the covered State, shall monitor disposal actions taken by DOE ... for the purpose of assessing compliance with the performance objectives
 - If any disposal actions taken by DOE not in compliance with performance objectives, NRC shall inform DOE, the covered State, and congressional committees



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Judicial Review Under 3116

- Section (f): Judicial review shall be available in accordance with chapter 7 of title 5, USC, for the following:
 - (1) Any determination made by the Secretary or any other agency action taken by the Secretary pursuant to this section.
 - (2) Any failure of the Commission to carry out its responsibilities under subsection (b).



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NRC Role Under 435.1

- Consultation is optional
 - Current EM senior management position is that we will consult with NRC
 - RAIs & TERs, but less emphasis on public meetings
- No NRC or State role in monitoring disposal or closure activities
- NOTE: No 435.1 WIR has yet been prepared post “WIR lawsuit” in Idaho



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WDs vs. WIRs – 3116 vs. 435.1

- 10 CFR 61 performance objectives vs. 435.1 performance objectives
 - Very similar
- Other criteria essentially same
- Different NRC role per legislation
 - DOE management wants us to use the same processes wrt WD/WIR and meetings
- No State role



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Other Roles for NRC in Non-3116 WDs

- Scoping
 - Very successful at SRS for FTF PA
 - Considered a best management practice by EM Senior Management
 - Extremely useful to stakeholders and State/EPA regulators
 - Currently, starting implementation of scoping process at Hanford for WMA-C



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Conclusions

- Consistency needs to be a cornerstone of disposal and closure documentation
 - WIR Evaluations will mirror Section 3116 WDs
 - Consultation with the NRC will be consistent across sites
- Sharing between sites is essential
 - Lessons Learned
 - R&D results
 - Modeling techniques
 - Regulatory interfaces, e.g., Scoping Process



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