
Waste Incidental to Reprocessing (WIR) vs. NDAA Section 3116 and Hanford Tank Closures

Martin Letourneau
U.S. Department of Energy
Office of Environmental Management, Office of Compliance



EM *Environmental Management*

safety ❖ performance ❖ cleanup ❖ closure

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Introduction

- NWPA – What it says, what it doesn't
- DOE Order 435.1, Radioactive Waste Management
- NRDC et al lawsuit
- NDAA Section 3116
- Conclusions



NWPA -- What it says, what it doesn't

- Nuclear Waste Policy Act of 1982
- Required evaluation of need for development of a repository for disposal of high-level radioactive waste and site recommendations to President
- Federal government responsible for providing permanent disposal of high-level radioactive waste and spent nuclear fuel
- Subsequent lawsuits assert all HLW must go to repository



DOE Order 435.1, Radioactive Waste Management

- Issued July 9, 1999
- Identified Waste Incidental to Reprocessing Process
 - Citation
 - Evaluation
- Based on previous EISs, NRC denial of petition for rulemaking
 - Same criteria as denial of petition for rulemaking



NRDC et al lawsuit

- Asserted violation of NWPA
- 9th Circuit Court said “No”
 - Remanded to Idaho District Court
- District Court says “Yes”, but...
 - Not “ripe” for decision-making
- DOE management sought legislative solution
 - Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (NDAA)



NDA Section 3116

- **Section (a)** – General Criteria and DOE Responsibilities up to and including waste determination
- **Section (b)** – NRC Monitoring Responsibilities
- **Section (c)** – Inapplicability to Certain Materials
 - Only applies to waste disposed within State
- **Section (d)** – Covered States
 - South Carolina and Idaho
- **Section (e)** – Construction
 - Does not alter any other laws, regs, or agreements
- **Section (f)** – Judicial Review



Conclusions

- Either 435.1 WIR or 3116 Waste Determination required for HLW-origin residual being left behind
- 435.1 WIR not “tested” yet
 - A WIR on WMA C will make it “ripe” for lawsuit
- 3116 preserves role for state
 - State issued permit or closure plan
- 3116 ensures NRC involvement through consultation and monitoring
 - Monitoring executed in coordination with State



Backup Information

- DOE O 435.1 WIR Criteria – ATTACHMENT A
- NDAA Section 3116 – ATTACHMENT B

