

WM2013 Conference Panel Report

PANEL SESSION 14: Policy Makers' Perspectives on the Framework for §3116 Waste Determination and WIR

Co-Chairs: Virginia Dickert, *Savannah River Remediation, LLC*
Linda Suttora, *US DOE-EM*

Panel Reporter: Mark Mahoney, *Savannah River Remediation, LLC*

Panelists:

1. **Ines Triay**, *Executive Director, Applied Research Center, Florida International University*
2. **Shelly Wilson**, *Federal Facilities Liaison, SCDHEC*
3. **Larry Camper**, *Division Director, US NRC*
4. **Bill Levitan**, *Director, Office of Environmental Compliance, US DOE-EM*
5. **Graham Jonsson**, *Lead Program Manager, NDA (United Kingdom)*

About 100 people attended this panel session which focused on the policies that define the basis of determining when HLW or structures contaminated with HLW have been sufficiently decontaminated such that they can be managed as LLW. In particular for the US, the session focused on the experiences of using §3116 Waste Determination or US DOE Order 435.1 WIR by Evaluation. An overview of the national policies on HLW in the UK was also provided. The session opened with the four US panelists presenting their perspective on recent experiences of implementing §3116 and WIR Evaluations at Savannah River Site and West Valley, respectively and **Graham Jonsson** discussing recent experiences at Sellafield. This was followed by a question and answer session which included questions on lessons learned of using §3116 and WIR Evaluations and how the process could be further improved. It was noted that Sessions 101 and 117 would be dedicated to capturing lessons learned and opportunities to further streamline the process.

Summary of Presentations

Ines Triay gave an historical perspective of how and why the §3116 Waste Determination process was put into place. In response to a lawsuit challenging the Secretary of Energy's authority to classify waste which had previously been HLW as LLW, DOE set up a team including regulators and congressional staff of South Carolina and Idaho to establish the legal process for how the waste classification determination could be made. By working together this team was able to put together the §3116 Waste Determination process that was passed into law by Congress. Key points of setting up §3116 were 1) allowed the affected State to continue to regulate waste per applicable permit requirements, 2) DOE to regulate radionuclides, and 3) established role of NRC to consult during the waste determination process and then to monitor.

The §3116 process uses the performance assessment process to assess impacts of residuals that cannot be removed. This process has now been implemented at both Idaho and Savannah River Site to support the operational closure of waste tanks. Lessons learned from these two successes should be implemented to continue to improve and streamline the process to enable future tank closures to be expedited.

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Shelly Wilson attributed the recent tank closure success at Savannah River Site to the §3116 process which provides a clear roadmap to be followed. She gave a brief overview of the State of South Carolina's role in the §3116 development process. She emphasized the State's need to have a strong voice in the decision making process and feels this was accomplished through the §3116 process. The State must approve closure plans for the tanks and has the ability, after appropriate technical review, to say yes or no to moving forward with tank closures. She felt that the process was monumental to the State in handling the number one environmental risk in South Carolina. She emphasized that time is not on our side due to the aging of the waste tanks and the State wants to maintain the momentum and continue to use the §3116 process to close additional tanks. By working together, this risk to the state of South Carolina can be addressed.

Larry Camper stated that the NRC has been involved in the WIR Evaluation process since 1993 and the criterion in §3116 was very similar to that developed by the NRC in the WIR process. The NRC has two roles under §3116, 1) Consult to DOE with regard to waste determinations and 2) Monitor to assess compliance with performance objectives. Under the consultation role, the NRC will issue a Technical Evaluation Report where they will ask lots of questions. This will set the stage for their monitoring role. The monitoring role will be done in a performance based, risk informed manner. In conclusion, the §3116 process established by Congress is a complex arrangement that has worked well and the NRC involvement is value added. Numerous lessons have been learned and the process will continue to get better.

Bill Levitan gave an overview of the §3116 process from a DOE-HQ perspective. He stated that the §3116 process provides DOE a legal framework to classify residual waste. NRC consultation on the process provides an independent review of the overall process. He briefly discussed the past successful uses of the §3116 process at Idaho and at the Savannah River Site with Saltstone Disposal Facility operations and Tanks 18/19 operational closure. He emphasized that closing waste tanks is only part of the responsibility. It must be done in a manner that is protective of human health and the environment. He stated that he was looking forward to sessions later in the week to review lessons learned and to improve the §3116 process to allow it to be completed in a more timely manner for future waste tank closures.

Graham Jonsson provided an overview of national policies on HLW in the UK. He stated that there had been a transition in the UK in the 1980's to place a priority on dealing with solid and liquid operational waste. New plants were put into place as a result of this shifting of priorities. Initially, the UK was working to deal with legacy waste in the same manner as how they handled operational waste. However, they soon discovered that this was not straight-forward primarily because the legacy waste was not well characterized. They decided to implement a phased approach to dealing with legacy waste and they worked to manage the hazards and reduce risks in a balanced fashion. The UK is currently moving from an individual project approach to an overall integrated risk reduction program approach.

Questions and Answers

In response to a question of how does SCDHEC interface with EPA on tank closures, **Shelly Wilson** replied that SCDHEC holds extensive conversations with EPA and involves them throughout the entire process.

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On a question of how §3116 applies to contaminated soils at the Hanford Site, **Bill Levitan** stated that the §3116 process does not currently apply for Hanford; but even if it did apply, §3116 does not cover soil contamination.

In response to a question on what the States regulate, **Shelly Wilson** stated the States regulate the chemical constituents. However, the State does look at the entire body of information, including radionuclides, and factors that information into their decisions.

Several questions were asked on lessons learned from the §3116 process and how they could be applied to speed up the review and approval process. It was stated that everyone should hold those detailed questions for Sessions 101 and 117 which are dedicated to the lessons learned process for §3116.