July 24, 2017

Mr. Daniel Cohen  
Office of the General Counsel  
U.S. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

RE: Reducing Regulation and Controlling Regulatory Costs

Dear Mr. Cohen,

Below are the Energy Communities Alliance’s (ECA)1 comments to the U.S. Department of Energy’s (DOE) Request for Information (RFI) to identify existing regulations, paperwork requirements, and other regulatory obligations that can be modified or repealed, consistent with law, to achieve meaningful burden reduction while continuing to achieve the Department’s statutory obligations.

In the spirit of streamlining DOE regulations, processes, and practices, the following recommendations, if enacted, will increase environmental cleanup efficiency, support national and energy security efforts, and reduce unnecessary burdens to local governments and other DOE stakeholders.

I. Involve local governments early in DOE decision- and budget-making processes

Maintaining partnerships and undertaking meaningful engagement between DOE and local elected officials are vital to ensuring a unity of purpose that advances DOE and National Nuclear Security Administration (NNSA) mission priorities. While DOE has established Site Specific Advisory Boards (SSAB) at its sites around the complex, these boards do not represent the host communities nor replace the need for EM to work with local government officials directly. Local government input and support should not be taken for granted as ECA has found that meaningful, ongoing engagement by site managers and headquarters officials can save time, alleviate confusion, build trust, save DOE hundreds of millions of taxpayer dollars, and assist DOE in accomplishing its missions. Likewise, local elected officials and communities can be powerful allies in the budget and appropriations process if engaged early and often.

---

1 ECA is the national association of local governments of communities that host or are affected by DOE and National Nuclear Security Administration (NNSA) activities. ECA’s mission is to bring together leadership from DOE-affected communities to share information, establish policy positions, and advocate for common interests in order to effectively address and increasingly complex set or environmental, regulatory, and economic development needs. ECA board members include local elected officials and community leaders from communities across the DOE complex.
Recommendations:

- DOE and NNSA decision-making processes should involve consultation with local elected officials on a pre-decisional basis when any impact on the local community is possible.\(^2\)
- DOE and NNSA should continue to have meaningful engagement with local governments when developing programmatic proposals and environmental impact statements in order to educate interested parties and avoid mistrust and controversy.
- DOE should proactively seek local government input when renegotiating federal facility agreements for environmental cleanup, as local communities and their citizens are most impacted by a decision’s lasting economic, environmental, and public health effects.
- DOE should engage local elected officials and other stakeholders at every stage of the budget development and appropriations process to create a budget that will meet environmental cleanup, energy research, and national security needs.
- DOE and NNSA should provide funding for education, outreach, and feasibility studies of vital DOE operations, including those related to nuclear waste disposal facility siting.\(^3\)
- DOE contractors should not ignore the role of local government in fostering an environment wherein top scientists and researchers want to live and work.

II. Integrate ECA’s acquisition reform recommendations and principles

The safe operation of DOE and NNSA sites is of paramount importance to DOE and adjacent host communities. Host communities should be recognized as faithful customers who have the highest stake in contract performance. ECA urges DOE to continue to address ECA’s acquisition reform recommendations and principles set forth in Changing Course: The Case for Sensible DOE Acquisition Reform.\(^4\)

Recommendations:

- DOE should reaffirm the Community Commitment clause and include in all contracts requirements for incentivized community engagement.
- Contractors should be encouraged to support local small businesses via subcontracts and other means as a display of good corporate citizenship.
- NNSA and DOE program offices should reconsider use of centralized supply chain management systems that bypass local or small businesses.
- DOE should place emphasis on contract vehicles that have proven successful and beneficial to host communities in the past.

\(^2\) This was a common practice at the Rocky Flats cleanup site, and ensured that disagreements, confusion, or other issues were resolved earlier in the cleanup process, thereby resulting in time and cost savings.


III. **Review the authority of DOE per Order 435.1 to categorize radioactive waste by radiological composition rather than origin of the waste.**

ECA supports EM efforts to review Order 435.1 as a means to clarify the definition of defense high-level waste (HLW) to reflect composition rather than origin. ECA believes there are quantities of defense HLW at the Hanford, Savannah River, and Idaho Sites that show substantial decay, and are therefore less radioactive today than when first generated. Pending an administrative review by DOE via the authority in Order 435.1, this waste could meet the current specific definition of transuranic (TRU) waste, for which there is a clearly-defined disposal pathway at the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico or potentially at a private facility such as the Waste Control Specialists site in Andrews, Texas.

ECA believes that clarifying the definition of defense HLW can create additional risk-based disposal pathways, expedite cleanup, and save taxpayer dollars. The cost savings and cost avoidance are estimated to be in excess of $25 billion.\(^5\) Benefits of this approach include:

1. **Better stewardship of taxpayer dollars** as the funds obligated annually for cleanup of the nuclear weapons complex could be utilized more effectively to address other wastes currently without a disposal path.
2. **Reduced risk to human health and the environment** as waste could be moved safely and expediently in the nearer-term to a permanent disposal site rather than remain in *de facto* interim storage.
3. **Reduced need for DOE to build storage facilities** as some waste currently classified as defense HLW would not need to be vitrified and stored while waiting for a permanent geologic repository to open.

**Recommendations:**
- EM should continue to review Order 435.1 as a means to clarify the definition of radioactive wastes across the complex and utilize existing waste disposal pathways.
- EM, in partnership with ECA and other stakeholders, should help educate Congress on the economic and environmental benefits of clarifying waste definitions.

IV. **Resolve the maintenance and infrastructure backlog**

DOE and NNSA missions are critical to national defense and are important economic drivers in host communities. These missions cannot be accomplished unless aging infrastructure, maintenance backlogs, and excess facilities are addressed.

**Recommendations:**
- DOE and NNSA should continue work to modernize the entire national security complex.
- NNSA must resolve maintenance and disposition issues across the complex, prioritized by need.

\(^5\) ECA is currently developing, and will share with DOE upon completion, a white paper which will include additional data on the potential costs savings at different sites across the DOE complex.
• DOE, NNSA, and their contractors should avoid circumventing state and local tax laws by creating non-profit entities charged with improving agency and infrastructure modernization.

V. Address succession planning and looming workforce transition issues

DOE and NNSA contracting processes appear to ignore the future of DOE’s workforce. NNSA’s new contract requirements seem to focus only on current operations as they remove the long-term partnerships requirements that exist to address workforce transition issues. DOE and NNSA partnerships with local universities and technical colleges have proven successful in the past through creating opportunities for workforce education and talent recruitment while simultaneously benefiting local communities by enhancing economic and educational opportunities. These partnerships will be increasingly important as the DOE workforce continues to age and many workers across the complex retire during the course of this Administration—taking their technical skills and institutional knowledge with them.

Recommendations:
• DOE and NNSA contracts must address the aging workforce and recruiting shortfalls present at facilities across the complex.
• DOE should continue to request appropriations for, and expand grants to local educational institutions to train the next generation of DOE workers.
• DOE should encourage the support and participation of site and field office leadership in local education events, workforce training programs, and other mutually beneficial opportunities.
• DOE should coordinate with local universities and technical colleges to create apprenticeships and internships wherever possible.
• DOE, NNSA, and their contractors must work with local communities to develop and support STEM curriculum for K-12 education as to secure local, sustained streams of workforce talent able to assist in the decades-long cleanup processes at DOE sites.

VI. Enhance host community support and property transfer

Host communities and their local elected officials are faithful customers of DOE. Therefore, DOE must support these communities through whatever means appropriate, e.g., community commitments, Payments in Lieu of Taxes (PILT), economic and educational grants, technical assistance grants, etc. Additionally, many DOE sites have reduced their operational footprints, and therefore are in possession of excess or underutilized real property. The federal government should divest itself of these properties and give local governments priority for their transfer. Doing so will reduce the federal obligation for maintenance while providing economic diversification opportunities in local communities.

Recommendations:
• EM should recognize the contribution of host communities in supplying critical infrastructure and services such as roads, hospitals, schools, police equipment, fire and other emergency services, municipal services, etc. by ensuring that host communities which receive PILT are paid in full and on time.
• DOE must ensure impacted communities receive support for educational development, economic diversification, and other programs to demonstrate DOE’s commitment to their local government customers.
• DOE should, upon request, provide local governments with grants for third-party assessments of DOE proposals so communities can independently assess economic and social impact.
• DOE should engage local officials in the transfer of excess real property as to provide local communities with economic development potential.
• DOE and NNSA must reinstate community commitment requirements to address the long-term viability of DOE operations.

VII. Optimize coordination and communication among DOE offices

DOE must continue to foster meaningful and regular communication among the Offices of Environmental Management (EM), Nuclear Energy (NE), Science, and the National Nuclear Security Administration (NNSA). Lack of quality intra-agency communication leads to bureaucratic confusion and message inconsistency, and can slow mission progress at the site level and at headquarters. Efficient and consistent communication will create a unity of effort at DOE and assure progress toward DOE and ECA goals.

Recommendations:
• DOE must ensure that meetings and other forms of regular communication occur between DOE site managers and management offices, and local government officials.
• DOE site managers must ensure that local decisions that impact a community are made with input from local government officials and in coordination with all local DOE programmatic offices.

Thank you for the opportunity to share our recommendations. If you have any questions, please contact ECA Executive Director Seth Kirshenberg at (202) 828-2317 or ECA Program Manager Megan Casper at (202) 828-2410 or meganc@energyca.org.

Sincerely,

Councilmember Chuck Smith
Aiken County, SC
ECA Chair

Enclosure.

Cc: ECA Executive Board