

February 26, 2019

Chairman James Inhofe  
Ranking Member Jack Reed  
U.S. Senate  
Armed Services Committee  
Russell Senate Building, Room 228  
Washington, DC 20510

**RE: SEC. 3139. Evaluation of Classification of Certain Defense Nuclear Waste  
National Defense Authorization Act for Fiscal Year 2018**

Dear Chairman Inhofe and Ranking Member Reed,

The Energy Communities Alliance (ECA)<sup>1</sup> is writing to request that the Committee attempt to require DOE's compliance with *Section 3139. Evaluation of Classification of Certain Defense Nuclear Waste*, included in the National Defense Authorization Act for Fiscal Year 2018 which states:

*Secretary of Energy shall conduct an evaluation of the feasibility, costs, and cost savings of classifying covered defense nuclear waste as other than high-level radioactive waste, without decreasing environmental, health, or public safety requirements.*

The deadline for submission of this report to your committee was February 1, 2018.

On Oct. 10, 2018, the DOE's Office of Environmental Management (EM) published a request for public comment on its interpretation of the statutory definition for high-level radioactive waste (HLW).<sup>2</sup> Under its proposal, DOE would interpret that some reprocessing wastes may be classified as non-HLW and may be disposed based on their radiological characteristics, rather than their origin. This is significant because, historically, DOE has conservatively managed most wastes resulting from reprocessing as HLW destined for geologic disposal in a federal HLW repository, based solely on the origin of the waste.

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<sup>1</sup> ECA is the association of local elected officials in the communities hosting or adjacent to U.S. Department of Energy (DOE) and National Nuclear Security Administration (NNSA) sites.

<sup>2</sup> [FR Vol 83, No 196]

By shifting to base disposal decisions on *actual radiological characteristics and risk to human health* arising from the waste, DOE could:

- Reduce years of DOE operations and risks to current host communities;
- Accelerate Hanford, Idaho, West Valley and Savannah River tank retrievals and closures;
- Decrease the number, size and duration of storage facilities pending availability of a permanent deep geologic HLW repository; and
- Save taxpayers an estimated \$40 billion or more on DOE's Office of Environmental Management program's remaining lifecycle costs.

As reported by the Government Accountability Office last month,<sup>3</sup> EM now estimates that future work could cost at least \$377 billion—\$109 billion more than last year's estimate. It is more important now than ever to advance nuclear waste management and evaluate options that can provide risk-based, technically feasible, cost-effective and safe alternatives for moving waste out of our communities that supported the defense of our country more expeditiously.

ECA, whose members include the local government officials around the sites that will be most impacted,<sup>4</sup> support DOE's efforts to evaluate the proposed change in HLW interpretation. Furthermore, we recommend a two-pronged approach to address this issue:

1. An administrative approach (like the one currently proposed) that will use existing DOE authorities provided under DOE Order 435.1 to provide the clarity in how waste is defined; and
2. A legislative approach to codify the statutory change in the legal definition, which could happen in parallel with DOE but assume a longer process for developing any legislation to allow robust education and outreach to stakeholders.

The report required under Section 3139 of the NDAA for Fiscal Year 2018 would help provide much needed information and determine next steps.

ECA would appreciate the opportunity to meet with the Committee to further discuss DOE's HLW Interpretation, potential impacts and support. In addition, if there is any information we can help on the management of defense legacy waste in our communities, please contact Kara Colton, ECA's Director of Nuclear Energy Policy, at (202) 837-2317, or by email at [kara.colton@energyca.org](mailto:kara.colton@energyca.org).

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<sup>3</sup> See: [Program-Wide Strategy and Better Reporting Needed to Address Growing Environmental Cleanup Liability](#) (GAO-19-28).

<sup>4</sup>Any change in the HLW Interpretation will most directly affect how liquid reprocessing wastes stored in or removed from large underground tanks at DOE's Savannah River Site in South Carolina, the Idaho National Laboratory, at the Hanford Site in Washington State and at the West Valley Demonstration Site in New York, can be managed in the future. On the receiving end, the Waste Isolation Pilot Plant in New Mexico, the Nevada Nuclear Test Site and Waste Control Specialists in Andrews, Texas, will be most directly impacted.

Sincerely,



County Executive Ron Woody  
Roane County, TN  
ECA Chair

Cc: Councilmember Steve Young; City of Kennewick, WA; ECA Vice-Chair;  
Mayor Rebecca Casper; Idaho Falls, ID; ECA Secretary;  
Councilor David Izraelevitz; Los Alamos County, NM; ECA Treasurer;  
Councilmember Jennifer Chandler; ECA Member-At-Large;  
Councilmember Chuck Smith; Aiken County, SC; ECA Past-Chair;  
ECA Board of Directors;  
Seth Kirshenberg, ECA Executive Director  
Assistant Secretary Anne White, Office of Environmental Management, U.S. DOE