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DOE SHOULD PAUSE IMPLEMENTATION OF ORDER PLACING LIMITS ON DNFSB OVERSIGHT OF HEALTH AND SAFETY AT DOE/ NNSA SITES

In May 2018, without input from the public or the Defense Nuclear Facilities Safety Board (DNFSB), DOE implemented [Order 140.1](#), a new policy for how the Department will interface with the DNFSB.

ECA sent a [letter](#) (reproduced in full on pages 11-13) to the Secretary of Energy on August 28 regarding DOE's new Order, **requesting the Department pause implementation of the Order**

until after the DNFSB, local governments, other stakeholders, and the public have an opportunity to comment on the policy. ECA is concerned about risks to public health and safety.

In the letter, ECA critiques Order 140.1, stating that its implementation may lead to a decrease in the timely

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PIKETON LOCAL GOVERNMENT REQUESTS DOE AND STATE PUBLIC HEARING ON DISPOSAL FACILITY

The Village of Piketon, Ohio passed a resolution [requesting](#) a public hearing from DOE and the Ohio Environmental Protection Agency regarding the Waste Acceptance Criteria Implementation Plan for a proposed on-site nuclear disposal facility at the Portsmouth Gaseous Diffusion Plant. The facility would hold nuclear waste from DOE's decontamination and decommissioning project.

In the resolution, Piketon cites a 2005 U.S. District Court decision that states, **"...local officials must be allowed to participate in the planning and selection of the remedial action...at a federal facility site that is being cleaned up pursuant to a 'remedial action.'"** The Village reiterated its support for complete cleanup of the site that includes shipping waste to existing facilities instead of a new facility in Piketon.

Piketon Mayor Billy Spencer argued that DOE and the Ohio EPA side-stepped siting requirements and federal laws such as the Toxic Substances Control Act. Piketon Council Member and ECA Member-At-Large Jennifer Chandler has expressed concern that the village has not been receiving quarterly updates from DOE or regular interaction with DOE officials in the community.



Save the Date
2019 National Cleanup Workshop

September 9 – 12, 2019
Hilton Alexandria Mark Center
Alexandria, Virginia



In cooperation with...



Legislative Update

In a unique turn of events, Congress is passing bills on a schedule resembling “normal-order,” a feat which has not happened in approximately 20 years. Key bills that impact Department of Energy (DOE) and National Nuclear Security Administration (NNSA) activities are the Defense Authorization and the Appropriations bills. Below is a summary of both:

Annual Defense Authorization Bill Signed, Earliest in 40 Years

On August 13, President Trump signed the ([conference report](#)) National Defense Authorization Act (NDAA) for Fiscal Year 2019 at a signing ceremony at Fort Drum. The report contains authorization of funding levels and defense policies agreed to by a committee of legislators from both chambers (the appropriations bill will set the funding levels). The House passed the bill before leaving Washington for the August recess, while the Senate passed the bill during its shortened recess. The August 13 signing marks the earliest that the annual defense authorization bill has become law in 40 years.

The NDAA authorized **\$21.9 billion in funding for DOE's national security programs**. This amount is a \$219 million increase above FY 2018 appropriations and around \$109 million above the President's budget request.

For NNSA, the bill authorized a \$564 million increase for a **total of \$15.2 billion for FY 2019**. The authorization for defense nuclear nonproliferation was decreased, and weapons activities were increased by \$550.5 million over last fiscal year's appropriated amount.

Defense environmental cleanup was decreased by \$362 million below FY 2018 for a **total authorization of \$5.62 billion**. Some sites such as Savannah River Site (SRS), Oak Ridge Reservation, and WIPP received increased authorizations. The final bill requires the Secretary of Energy to review EM cleanup activities, which includes an assessment of DOE's oversight and project management, in addition to recommendations to

improve the efficiency of defense environmental cleanup activities.

While the House bill included \$30 million for restarting Yucca Mountain licensing activities, the Senate bill did not include such funding. The final bill ultimately did not include a funding authorization for the Yucca Mountain licensing activities.

Right before the bill's passage, NNSA [decided](#) it would announce the end of the Mixed Oxide Fuel Fabrication Facility (MOX Facility) and expand plutonium pit production at SRS. They issued a memo identifying that it would study whether to continue operations at SRS. In response, the NDAA includes provisions from the conference committee which [addressed](#) the expansion of plutonium pit production to the MOX Facility in South Carolina. The final bill requires NNSA to develop a plan in case the MOX Facility is not “operational and producing pits by 2030.”

Additionally, the bill requires the Nuclear Weapons Council (NWC) to annually update Congress on NNSA's progress in achieving production of 80 pits per year by 2030—a goal set by the recent Nuclear Posture Review. Specifically, the NWC Chairman must submit to the Secretary of Energy, NNSA Administrator, and Congress a certification that pit production is on track, detailing relevant milestones and statutory requirements met. If the Chairman is unable to submit the certification, NNSA is required to respond within 180 days addressing the reasons for failure of certification and include a backup or recovery plan.

Finally, the same provision would require the Secretary of Defense is required to consult with the NNSA Administrator and enter into a contract with a federally funded research and development center (FFRDC) to conduct an assessment of the plutonium strategy by April 15, 2019. The assessment will examine the analysis of alternatives, costs, scheduling, workforce development, risk

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Legislative Update

reduction, and the strategy considered for manufacturing up to 80 pits per year at LANL.

The final bill includes two legislative provisions regarding Hanford. One provision required the Assistant Secretary of Energy for Environmental Management to notify and provide a briefing to Congress after a release of contamination resulting from defense waste at Hanford. Additionally, the bill extended lifetime of the Office of River Protection until 2024.

Defense, Energy and Water Appropriations Nearing Finish Line

House and Senate appropriators plan to begin the conference committee process throughout September to resolve differences in various spending packages for Fiscal Year (FY) 2019. There are two major spending bills known as “mini-buses” that will be conferenced in the coming weeks: one bill contains funds for Energy and Water, Military Construction-VA, and Legislative Branch, and the other bill contains funds for Defense, Labor, and Health and Human Services.

Senate Appropriations Chairman Richard Shelby (R-AL) said both chambers are aiming to hold conference meetings on the [Energy and Water](#) bill during the first week of September. House Appropriations cardinal Rep. Mike Simpson (R-ID) said the mini-bus containing the Energy and Water title could be ready for a final vote in the House as soon as September 12.

The House passed an appropriations bill containing only [Defense funding](#), while the Senate passed a bill that combined Defense, Labor, and Health and Human Services. The chambers will meet when the House returns from its recess to determine whether to proceed with separate spending bills or with the mini-bus.

Appropriations for FY 2018 expire on September 30, which gives Congress fewer than three weeks to pass their spending bills. Congress may be able to pass final spending bills for Defense and Energy and Water for FY 2019, but it may need to pass stopgap spending measures to carry over funding levels for certain titles that are further behind in the appropriations process.

Senate Confirming and Advancing DOE Nominees

On August 28, the Senate voted to confirm Karen Evans to be the DOE Assistant Secretary for Cybersecurity, Energy Security, and Emergency Response (CESER). The Senate Energy and Natural Resources Committee [advanced](#) nominations for Lane Genatowski as director of Advanced Research Projects Agency-Energy (ARPA-E) and William Cooper as general counsel for DOE.

Four other DOE nominees are still awaiting a final confirmation vote on the Senate floor. They include Teri Donaldson for Inspector General, Dr. Christopher Fall for Director of the Office of Science, Daniel Simmons for Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), and Charles Verdon for NNSA Deputy Administrator for Defense Programs.

2018 Intergovernmental Meeting with DOE, November 14-16 | New Orleans, LA

This meeting is by invitation only.
Contact meganc@energyca.org for details.

LOCAL ELECTED OFFICIALS INDEPENDENTLY ACTING FOR SAFETY OF THEIR COMMUNITIES

Across the DOE complex, at multiple environmental cleanup sites, local elected officials are asking DOE to review critical health and safety decision that impact their communities—a priority that should be jointly shared by multiple federal and state regulatory agencies and DOE.

Hanford, Washington

In the Tri-Cities region of Washington state, local mayors joined together on July 31 to send a letter in support of the proposed DOE plan to grout the second of two aging tunnels that contain radioactive waste and are connected to the PUREX plant. The first tunnel was already grouted following a collapse in May 2017. The mayors and DOE contend that grouting the tunnel would avoid a second collapse, of which the occurrence grows increasingly likely with the onset of wintery weather conditions.

The mayors of Kennewick, Richland, Pasco, and West Richland sent the letter to the Washington State Department of Ecology urging timely decision making on the matter. Before issuing a permit to DOE to commence the grouting, the State has insisted on holding what the mayors deem as a duplicative public comment period and public meetings after DOE held similar meetings on DOE's proposed plan. The meetings "could potentially delay, as much as a year, the action recommended by the panel of experts, which will reduce the risk to our region of a potentially catastrophic tunnel collapse," said the mayors' letter.

The State had declined to take action on the permit before the end of their comment period. DOE and the Hanford Communities have asked that they prepare to take action as soon as possible.

Piketon, Ohio

In Piketon, OH, near the Portsmouth Gaseous Diffusion Plant, community leaders petitioned DOE to hold public hearings to receive critical information—such as the Waste Acceptance Criteria Implementation Plan—for a proposed onsite disposal facility for radioactive waste generated in the cleanup of the site (see story on page 1). The community identified that the law (CERCLA §120 (f)) requires that DOE afford local governments the "opportunity to participate in the planning and

selection of the remedial action, including but not limited to the review of all applicable data as it becomes available and the development of studies, reports, and action plans."

Oak Ridge, Tennessee

Similar events are taking place in Tennessee, where on July 11, the City of Oak Ridge sent a letter to the DOE Oak Ridge Office Environmental Management and state and federal regulators, expressing concerns over a DOE plan to site and construct an onsite disposal facility for low-level radioactive waste at the Oak Ridge Reservation. Reports from the City's Environmental Quality Advisory Board and a third-party technical consultant—both of which were critical of the DOE plan—accompanied the letter.

The letter reads, "Aside from the serious technical concerns that must be addressed, the proposed plan lacks any analysis related to Community Acceptance, one of the nine criteria upon which federal law requires CERCLA decisions to be based. [...] We believe this is a serious oversight. I cannot recommend supporting a new nuclear waste disposal facility in our community without detailed clarifications to questions outlined in the attached report relating to mercury treatment waste disposal transport out West and concrete explanation of the exemptions requested and their impacts upon the Oak Ridge community."

Common Themes

In each of these three instances, there exists several common themes that are troubling for Hanford, Piketon, Oak Ridge, and the larger assembly of communities which host DOE cleanup sites. In each case, requests from local elected officials for more information or for specific actions to be taken have been met with resistance. Local elected offices are filling the void to ensure input on the cleanup actions at their sites are in their communities best interest.

DOE and regulators must integrate the critical role that local communities play in the environmental cleanup community. The liabilities inside the proverbial fence of DOE facilities directly impacts the local communities outside the site boundaries.

NEW MEXICO DELEGATION: NNSA SHOULD NOT FORCE CONTRACTOR TO CHANGE CORPORATE STATUS TO BECOME TAX EXEMPT AFTER CONTRACT AWARD

Congress of the United States

Washington, DC 20510

September 6, 2018

The Honorable Lisa E. Gordon-Hagerty
Under Secretary and Administrator
National Nuclear Security Administration
U.S. Department of Energy
1000 Independence Avenue Southwest
Washington, DC 20585

Administrator Gordon-Hagerty:

We write concerning the federal tax status of Triad National Security, LLC (Triad) in its execution of the new management and operating (M&O) contract for the Los Alamos National Laboratory (LANL).

Triad is a limited liability company, which consists of Battelle Memorial Institute, the Regents of the University of California, and the Regents of Texas A&M University. Fluor Federal Services, Huntington Ingalls Industries/Stoller Newport News, Longenecker & Associates, TechSource, Strategic Management Solutions and Merrick & Company support Triad in the performance of the M&O contract. Triad was incorporated in the State of Delaware as a “general” limited liability company with no special attributes as a nonprofit or religious organization.

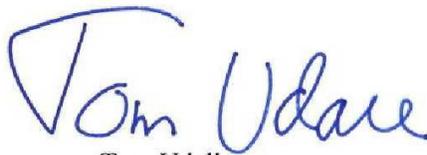
It is our understanding Triad has not sought or been granted exemption from the federal income tax by the United States Commissioner of Internal Revenue under Section 501(c)(3) of the U.S. Internal Revenue Code. We believe that whether or not Triad pursues a change in tax status is a decision to be made solely by the organization’s managers.

We would be very concerned if NNSA were to require Triad National Security to apply for federal tax exempt status under 501(c)(3). This would appear contrary to the unbiased NNSA procurement process and requests for proposals (RFP), which contained no preferential treatment to applicants based on the applicant’s ownership structure as non- or for-profit organizations. We are aware the Department of Energy Acquisition Regulation (DEAR) clause 970.5229, State and Local Taxes, is included by reference in the new M&O contract; however, we believe its intent is to ensure that contractors do not pay taxes that are “inapplicable,” not require an organization to change its corporate tax status at the direction of the federal government. We are unaware of any regulatory or statutory requirement or legal analysis that would require Triad to seek a different tax status than the previous contractor, LANS LLC, which managed and operated LANL since 2006.

Most importantly, Triad's federal tax status has significant implications for local communities in New Mexico. The estimate for the possible loss of state gross receipts tax (GRT) revenues is roughly \$25 million to \$30 million per year. Los Alamos County would also lose \$21 million annually. This tax revenue goes towards providing essential public services that support Los Alamos National Laboratory and the surrounding communities including education, police, fire coverage, and many more. Indeed, in 2015 total GRT was \$35 million so any cut of this magnitude would be a blow to this community.

Accordingly, we urge you to accept Triad's current corporate federal tax structure, and not require the new LANL M&O contractor to seek an alternative status that would dramatically reduce its contribution to New Mexico communities that supports essential public services.

Sincerely,



Tom Udall
United States Senator



Martin Heinrich
United States Senator



Ben Ray Luján
U.S Representative

EM'S MARK GILBERTSON PROMOTED TO ACTING EM-2 POSITION

Mark Gilbertson has been promoted within the DOE Office of Environmental Management (EM) to the position of Acting Principal Deputy Assistant Secretary, or Acting EM-2. He will serve in a dual capacity as Acting EM-2 and his previous role as the Associate Principal Deputy Assistant Secretary for Regulatory and Policy Affairs.

As Acting EM-2, he will work provide management oversight of activities, operations, and program integration across DOE field sites, enabling the safe and successful execution of the EM mission. Mr. Gilbertson has more than 35 years of public and private sector experience in environmental engineering and remediation, and has worked within EM since 2003 in a variety of capacities.

ECA wishes to Congratulate Mr. Gilbertson on his new position. ECA members and staff have always appreciated the expertise and attention he brings to the interests and priorities of local communities. He has substantively meaningfully participated in many ECA meetings, and we look forward to working with Mr. Gilbertson more in the future.



Mark Gilbertson

FORMER EM EXECUTIVE MARK WHITNEY MOVES UP THE RANKS AT AECOM

Mark Whitney was [appointed](#) as General Manager and Executive Vice President for DOE contractor AECOM's nuclear and environmental strategic business unit. His appointment follows the retirement of Dr. Todd Wright from the position.

"Mark Whitney has 20 years' experience in leadership roles at DOE and NNSA; most recently he served as the Principal Deputy Assistant Secretary for EM. During both his time at DOE and at AECOM, Mr. Whitney has demonstrated a great willingness to engage with ECA local governments and elected officials on the issues facing DOE host communities.



Mark Whitney

FY 2018/2019 Budget & Appropriations Highlights*

(amounts in thousands of dollars)

	FY 2018 Enacted	FY 2019 Requested	FY 2019 House Bill	FY 2019 Senate Bill
DEPARTMENT OF ENERGY	34,520,049	30,609,071	35,494,251	34,990,015
Environmental Management	7,126,448	6,601,366	6,869,220	7,182,058
Defense Environmental Cleanup	5,988,048	5,630,217	5,759,220	5,988,000
Hanford/ Richland	863,192	658,171	863,192	838,171
Office of River Protection	1,560,000	1,438,513	1,480,053	1,573,000
Idaho National Laboratory	434,071	359,226	433,200	349,226
Lawrence Livermore National Laboratory	1,175	1,704	1,704	1,704
Separations Process Research Unit	4,800	15,000	15,000	15,000
Nevada NNSA Sites	60,136	60,136	60,136	60,136
Sandia National Laboratory	2,600	2,600	2,600	2,600
Los Alamos National Laboratory	220,000	191,629	198,000	220,000
Oak Ridge Reservation	400,219	226,206	290,569	410,000
Savannah River Site	1,312,314	1,656,180	1,376,634	1,400,000
Waste Isolation Pilot Plant	376,571	403,487	396,907	396,907
Non-Defense Environmental Cleanup	298,400	218,400	240,000	353,240
West Valley Demonstration Project	75,000	63,687	75,000	75,000
Gaseous Diffusion Plants	101,304	100,575	100,575	102,000
Uranium Enrichment Decontamination & Decommissioning Fund	840,000	752,749	870,000	840,818
Oak Ridge	194,673	151,039	179,454	195,000
Paducah	205,530	270,224	223,000	206,000
Portsmouth	381,271	415,458	413,557	408,099
Legacy Management	154,606	158,877	158,877	158,877
National Nuclear Security Administration	14,668,952	15,091,050	15,313,147	14,780,000
Weapons Activities	10,642,138	11,017,078	11,200,000	10,850,000
Defense Nuclear Nonproliferation	1,999,219	1,862,825	1,902,000	1,902,000
Naval Reactors	1,620,000	1,788,618	1,788,618	1,620,000
Nuclear Energy	1,205,056	757,090	1,346,090	1,206,000
Science	6,259,903	5,390,972	6,600,000	6,650,000
Yucca Mountain and Interim Storage	---	120,000	220,000	---
Nuclear Waste Disposal	---	90,000	190,000	---
Defense Nuclear Waste Disposal	---	30,000	30,000	---

*Note: These figures are compiled from different sources: the Office of Management and Budget, the Congressional Appropriations committee reports, and press releases. There are some discrepancies in how each source calculates government spending.

(Continued from page 1)

ECA, Senators call on DOE, Appropriators to Halt Implementation of DOE Order Placing Limits on Oversight of Health and Safety at DOE/NNSA Sites

reporting of information to the DNFSB, limit DNFSB access to information on DOE activities or key DOE personnel, and silence the diversity of opinions that may exist between DOE and its contractors related to critical safety issues. ECA believes that the DNFSB is an important third party that performs necessary oversight of DOE activities, and adds needed trust and safety to the important work of DOE and NNSA concerning high-hazard and nuclear operations.

New Mexico Senators Tom Udall (D) and Martin Heinrich (D) sent a [letter](#) on August 29 to Senate Appropriations Chairman Alexander Lamar (R-TN) and Ranking Member Dianne Feinstein (D-CA) asking them to include language in the FY19 Energy and Water Appropriations bill that suspends Order 140.1, citing the DNFSB's unanimous opposition to the policy. They also sent a [letter](#) to the Secretary of Energy on September 5 asking to suspend implementation of the Order until DNFSB, Congress, and the public have time to review and offer feedback.

During a [public hearing](#) on August 28, DNFSB noted that the Order contains several fundamental changes when compared to DOE's old policies, including: (1) DOE's new definition of "public health and safety" to include only individuals beyond the site boundaries; (2) DOE's new restriction on access to information for Hazard Category 3 and radiological defense nuclear facilities; (3) DOE's new restrictions on access to deliberative documents, pre-decisional documents, or deliberative meetings; and (4) DOE's new requirements for contractors to refer all requests for

information or access related to defense nuclear facilities to a Departmental Site Liaison for determinations regarding response and to only respond when formally tasked by the Departmental Site Liaison.

During the August 28 hearing, DNFSB Board Member Joyce Connery noted that the limitations that Order 140.1 places on DNFSB's worker safety oversight is concerning. "Here we are with the Department defining for the Board that public health and safety and our consideration in determining adequate protection includes only individuals located beyond the site boundary of DOE sites. ... [Workers] are not our concern, according to this document. Yet, they are the mothers, the brothers, the bread-winners, and the soccer coaches in the communities of Aiken, Los Alamos, and Amarillo. They are the public," said Connery.

ECA Executive Director Seth Kirshenberg noted, "DOE's unwillingness to brief or discuss this new Order with anyone when the Order relates directly to public health and safety is surprising and troubling. It highlights for me the differences in offices at DOE. In the Offices of Environmental Management, Nuclear Energy, Legacy Management, and Science, ECA witnesses strong community engagement and a willingness to talk about the issues that face the complex and the communities. However, the Environment, Health, Safety, and Security Office (the office responsible for Order 140.1's development and implementation) prefers to announce and defend policies. Their unwillingness to speak with DNFSB, state and local governments, and others outside the doors of Headquarters is a trend that must be reversed, especially when you are talking about policies that impact public health and safety."



Check out Daughters of Hanford, a project that highlights women's perspectives of the Hanford nuclear site. The project offers a cross-section of politicians, leaders, and environmental cleanup advocates - all women who were part of history and the future talent putting their minds on the nuclear site's toughest problems. More information [here](#).

MAJOR CONTRACTS AND AWARDS

DOE Extends SRNS Management and Operating Contract until 2019

On July 30, DOE’s Savannah River Operations Office [announced](#) the extension of the management and operating (M&O) contract held by Savannah River Nuclear Solutions, LLC (SRNS). The current contract was set to expire on July 31, and the 12-month extension valued at \$1 billion will expire on July 31, 2019. SRNS oversees all site operations at the Savannah River Site except for physical security and liquid waste operations.

The contract extension was made to provide DOE the time needed to prepare a follow-on competitive M&O contract. DOE stated that SRNS is the only entity that “has the requisite knowledge” to continue site operations without interruption during the acquisition and transition cycle to a new contract.

DOE Issues Draft RFP for SRS Management and Operating Contract

On August 22, DOE [issued](#) a draft Request for Proposals (RFP) for the management and operating (M&O) contract at the Savannah River Site. The Department is fielding questions and comments until September 21, which will be incorporated in the final RFP. The final RFP is expected to be released in January 2019 and a contract award is expected in summer 2019.

The new M&O contract has a total value of \$15 billion over a 10 year period. The work under the contract includes EM cleanup activities, landlord services, tritium oversight, and Savannah River National Laboratory management. The draft identifies technical approach, key personnel, and past performance as factors in their evaluation of bids. DOE will host a pre-solicitation conference on September 10, where interested parties can have one-on-one meetings to provide input on the draft RFP.

DOE Releases Draft Request for Proposal for Hanford 222-S Laboratory Contract

DOE [issued](#) a draft Request for Proposal (RFP) for the 222-S Analytical Laboratory Facilities to support environmental cleanup at the Hanford Site. The potential contractor would be tasked with providing analytical chemistry production services and research. The contract period is up to seven years, including option periods, with a total value of approximately \$904 million.

DOE also plans to hold a pre-solicitation conference the week of August 20, 2018. A site tour and one-on-ones with interested parties will be conducted. Additional information can be found on the [procurement website](#).

DOE Acquisition Roadmap	
<p style="text-align: center;"><u>Extended</u></p> <ul style="list-style-type: none"> ▪ WIPP M&O ▪ Y-12/Pantex ▪ Moab ▪ Portsmouth D&D 	<p style="text-align: center;"><u>Under Evaluation/In process</u></p> <ul style="list-style-type: none"> ▪ SRS Liquid Waste ▪ Hanford Mission Essential Services ▪ PPPO consolidated support ▪ SRS M&O
<p style="text-align: center;"><u>Completed</u></p> <ul style="list-style-type: none"> ▪ Los Alamos M&O ▪ DUF6 ▪ Sandia ▪ Nevada National Security Site ▪ Paducah ▪ Los Alamos Legacy Cleanup 	<p style="text-align: center;"><u>Remaining to be competed</u></p> <ul style="list-style-type: none"> ▪ Hanford tanks ▪ Hanford plateau ▪ Oak Ridge D&D ▪ Nevada EPS

Source: Longenecker & Associates

GAO REPORTS



DOE Has Not Used Its Enhanced Procurement Authority but Is Assessing Potential Use

In 2014, the National Defense Authorization Act granted the Secretary of Energy enhanced procurement authority to manage supply chain risks by excluding suppliers from certain procurements. This authority was terminated in June 2018. In an August 2 [report](#), the Government Accountability Office (GAO) examined the Secretary's use of the authority and potential opportunities for use.

GAO found that DOE has not used the enhanced authority. Since 2016, NNSA officials identified one instance that may have warranted use of the authority but resolved the matter another way. NNSA plans to release a report in October 2018 that proposes extending the authority beyond the June 2018 expiration.

Actions Needed to Improve National Nuclear Security Administration Contract Document Management

GAO reviewed NNSA's document management for management and operating (M&O) contracts,

which totaled \$11 billion in fiscal year 2016. Federal regulations require that contract documents are readily accessible to principal users. In an August 1 [report](#), GAO found that NNSA's Office of Acquisition and Project Management (OAPM) "did not have ready access to key M&O contract documents stored at NNSA field offices" and could not provide them to GAO in a timely manner.

There were three reasons the documents were inaccessible: 1) OAPM does not have direct access because the documents are stored at NNSA field offices; 2) NNSA field offices have not been using DOE's Strategic Integrated Procurement Enterprise System (STRIPES) for contract document management; 3) OAPM does not have an effective process to access older documents. GAO recommended that OAPM update its guidance to use STRIPES for document management and monitor how NNSA is managing older M&O contract documents.

DOD (BUT NOT DOE) DEFENSE COMMUNITY INFRASTRUCTURE PILOT PROGRAM FUNDING – INVESTING IN LOCAL INFRASTRUCTURE THAT ASSISTS THE NATIONAL SECURITY MISSION.

The National Defense Authorization Act for Fiscal Year 2019 created a new program called the Defense Community Infrastructure Pilot Program. Under the new authority, the Department of Defense (DOD) can provide funding to state and local governments for infrastructure projects that would enhance military activities or resilience near military installations.

On August 23, the Senate [approved](#) an amendment to its defense spending bill that would allocate \$20 million for the program. A conference committee made up of House and Senate legislators will determine the final appropriation amount.

The Defense Community Infrastructure Pilot Program is set to expire after 10 years. State and local governments receiving funding through the program must contribute at least 30 percent of total project costs. Those contributions are waived for rural communities or for reasons related to national security.

ECA contacted NNSA about a investigating a similar program at NNSA sites and looking for ways for NNSA and local communities to work together to improve the infrastructure around and within NNSA sites.





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August 28, 2018

The Honorable Rick Perry
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

RE: Need for Collaboration on DOE Order 140.1 Prior to Further Implementation

Dear Secretary Perry:

On behalf of the Energy Communities Alliance (ECA), I am writing to request that the U.S. Department of Energy (DOE) pause and revisit the implementation of DOE Order 140.1, *Interface with the Defense Nuclear Facilities Safety Board*, and that efforts to resume implementation of the Order begin after the Defense Nuclear Facilities Safety Board (DNFSB) comments on the Order, and a formal review process that solicits input from the local communities most impacted by the Order and the public.

Collaboration and Consultation Necessary Steps in Policy Development:

As the organization of local communities that are impacted by DOE and National Nuclear Security Administration (NNSA) activities, ECA believes that efforts by DOE to develop policies that promote efficiencies in interactions with the DNFSB must be developed collaboratively with the DNFSB and be fully vetted through a process that includes: (i) notice; and (ii) opportunity for public comment. The previous policy under which DOE has operated with regard to the DNFSB was developed collaboratively between DOE and DNFSB, and ECA believes any new policies should be crafted similarly. DOE has chosen to unilaterally implement Order 140.1 without consulting the organizations and stakeholders most concerned by the impacts that DOE/NNSA activities have on public health and safety. ECA interacts with DOE on a regular basis, yet neither ECA nor its local government members were formally informed about the development or adoption of Order 140.1. DOE's failure to consult our organization, local communities, state regulators, tribes, or the public at any point is unusual for DOE.

The Significance of the DNFSB:

Congress created the DNFSB due to a significant number of high-profile problems associated with DOE's management of the nuclear weapons program, which could have potentially caused real health and safety issues for ECA member communities. Congress' intent in creating the DNFSB was to establish an oversight mechanism to: (1) review and evaluate the content and

implementation of standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities of DOE at each DOE defense nuclear facility; (2) investigate any event or practice at such a facility which the DNFSB determines has adversely affected, or may adversely affect, public health and safety; (3) have access to and analyze design and operational data from any DOE defense nuclear facility; (4) review and make recommendations to the Secretary regarding the design and construction of new DOE defense nuclear facilities; and (5) make recommendations to the Secretary with respect to all DOE defense nuclear facilities as necessary to ensure adequate protection of public health and safety.¹

While DOE has established its own internal review procedures, the presence of the DNFSB as an independent, non-duplicative body adds trust and safety to the important work of DOE and NNSA concerning high-hazard and nuclear operations. The DNFSB does not possess regulatory authority over DOE and NNSA, but it acts as an important third party that provides additional information on the actual risk of activities, and actions needed to mediate risk to the communities that would be most impacted by a nuclear accident. The DNFSB must be permitted to coordinate with DOE and its contractors to perform this oversight.

Critiques of DOE Order 140.1:

Though ECA appreciates DOE's stated goals of improving DOE operating efficiencies and decreasing costs, we believe Order 140.1 does not adhere to the spirit of the legislative requirements under which the DNFSB was created.

ECA believes the new chain of command established by Order 140.1 for DOE and NNSA communicating with DNFSB will decrease the timeliness of reporting important information. DOE learned years ago that working with regulators and the DNFSB is far more productive than fighting them. The DOE process identified in the Order will slow the development of critical DOE/NNSA infrastructure and progress for DOE defense cleanup missions.

ECA asserts that many of the requirements of Order 140.1 appear comprehensively and, at times, arbitrarily to limit DNFSB access to information on DOE activities or DOE personnel who make key decisions and understand the work in the field. The requirement that DOE "speak with one voice" may make sense in theory, but in practice ECA has not seen it implemented effectively across DOE or within any individual office. One of the largest problems at many major DOE sites is the inability of the multiple offices operating there to work together. Moreover, the Order seems to be systematically lessening the diversity of opinions that may exist between DOE personnel and DOE contractors related to critical safety issues.

Furthermore, it is unclear to ECA how NNSA, the Office of Environmental Management, the Office of Science, and other DOE offices that rely on the DNFSB to complete their projects will follow Order 140.1. These concerns should be addressed prior to the Order's implementation.

¹ U.S. House of Representatives. National Defense Authorization Act, Fiscal Year 1989, Conference Report (to Accompany H.R. 4481). (H.Rept 100-735).

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Conclusion:

ECA supports efficiencies in the DOE and DNFSB working relationship. We would hope that DOE would provide an opportunity for public input to refine it and create a clear working relationship between DOE/NNSA and DNFSB. ECA acknowledges that the DNFSB's operations can and must improve, particularly with regard to more meaningfully incorporating concerns of cost and technical feasibility into their recommendations to DOE. Nevertheless, DOE must not impede DNFSB operations by restricting access to critical information necessary to fulfill the Board's mandate. Limiting interaction is not a solution for creating efficiencies.

ECA asks DOE to take immediate action to involve the DNFSB, local communities, state regulators, tribes, and other stakeholders in the development of an improved policy that corrects the errors of the new Order 140.1. We welcome the opportunity to discuss this issue further with your office. If you have any questions, please contact ECA Executive Director Seth Kirshenber at (202) 828-2317.

Sincerely,



Ronald Woody
County Executive, Roane County, TN
Chair, Energy Communities Alliance

Cc: Councilmember Steve Young, City of Kennewick, WA; Vice-Chair, ECA;
Councilor Rick Reiss, Los Alamos County, NM; Treasurer, ECA;
Mayor Rebecca Casper, City of Idaho Falls, ID; Secretary, ECA;
Councilmember Jennifer Chandler, Village of Piketon, OH; Member-At-Large, ECA;
Councilmember Chuck Smith, Aiken County, SC; Past-Chair, ECA;
ECA Board of Directors;
Under Secretary for Science Paul Dabbar, DOE;
Under Secretary of Energy Mark Menezes, DOE;
Administrator Lisa Gordon-Hagerty, NNSA;
Assistant Secretary for Environmental Management Anne White, DOE;
Assistant Under Secretary for Environment, Health, Safety and Security Matthew Moury,
DOE

DOE ISSUES NOPR ON NUCLEAR SAFETY MANAGEMENT, OPENS PUBLIC COMMENT PERIOD AND ANNOUNCES PUBLIC MEETINGS

At the same time that DOE is attempting to limit DNFSB oversight of health and safety issues (see story on page 1), DOE is now also changing the rules for safety in the field.

In August, the DOE Office of Environment, Health, Safety and Security, contacted ECA to inform us that on August 8, DOE submitted a [notice of proposed rulemaking \(NOPR\)](#) to the Federal Register for 10 CFR part 830 – Nuclear Safety Management, and to highlight the opportunity for public comment, both through public meetings and via electronic submission.

The rule governs the conduct of DOE contractors, DOE personnel, and other persons conducting activities that affect, or may affect, the safety of DOE nuclear facilities. The proposed revisions reflect the experience gained in the implementation of the existing rule over the past seventeen years. The proposed revisions are intended to enhance operational efficiency while maintaining robust safety performance.

The key changes discussed in the NOPR are:

1. A modification to the version of the DOE standard used in hazard categorization
2. A change in the definition of “un-reviewed safety question”
3. A change in the process by which DOE approves changes to the documented safety analysis
4. Changes to the definitions associated with new and existing facilities

Public comment on this proposed rule will be accepted until **October 9th, 2018**.

September 25, 2018 in Oak Ridge, TN

1:00-4:30pm; 6:00-8:30pm
Oak Ridge Associated Universities
Pollard Technology Conference Center Auditorium
210 Badger Avenue
Oak Ridge, TN 37831

September 27, 2018 in Aiken, SC

1:00-4:30pm; 6:00-8:30pm
University of South Carolina, Aiken
Business and Education Building, Room 124
471 University Parkway
Aiken, SC 29801

To submit comments in written form please use any of the following methods, with the identifier of “RIN 1992-AA57”:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. (Follow the instructions for submitting comments).
- *E-mail:* Rulemaking.830@hq.doe.gov. Include RIN 1992-AA57 in the subject line of the email. Please include the full body of your comments in the text of the message or as an attachment.
- *Mail:* U.S. Department of Energy, Office of Nuclear Safety, AU-30, 1000 Independence Avenue, SW, Washington, DC 20585.



**To sign up for the ECA news updates
please visit our website:**

www.energyca.org

ECA RELEASES NEW ONLINE TOOL FOR LOCAL COMMUNITIES, PUBLIC TO LEARN ABOUT DOE CLEANUP SITES

ECA has [published profiles](#) of 13 active DOE cleanup sites and national laboratories on its website. Each profile provides an overview of the site, including the history, missions, and community priorities. Additionally, ECA identifies key stakeholders such as local host communities, advisory boards, and contractors. Readers can also find contact information for local government officials and DOE officials. Each state's icon includes a blue pin indicating where the DOE site is located within the state.

The site profiles were developed in coordination with host communities and DOE. With ECA members' input, the profiles provide first-hand insight into the activities and priorities within the communities. Constituents, nongovernmental organizations, media, and other stakeholders can utilize the profiles to learn about nearby DOE activities and easily contact local officials.

		
BROOKHAVEN NATIONAL LABORATORY	HANFORD SITE	IDAHO
VIEW PROFILE	VIEW PROFILE	VIEW PROFILE
		
LAWRENCE LIVERMORE NATIONAL LABORATORY	LOS ALAMOS NATIONAL LABORATORY	NEVADA NATIONAL SECURITY SITE
VIEW PROFILE	VIEW PROFILE	VIEW PROFILE



2018 Congressional Calendar



Both chambers in session
 Senate only in session

July

Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
1	2	3	4 Independence Day	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

August

Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15 Eid al-Adha	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

September

Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
						1
2	3 Labor Day	4	5	6	7	8
9 Rosh Hashana (begins)	10	11	12	13	14	15
16	17	18 Yom Kippur (begins)	19	20	21	22
23	24	25	26	27	28	29
30						

October

Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
	1 FY '19 (begins)	2	3	4	5	6
7	8 Columbus Day	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

November

Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
				1	2	3
4	5	6 Election Day	7 Diwali	8	9	10
11	12 Veterans' Day (observed)	13	14	15	16	17
18	19	20	21	22 Thanksgiving Day	23	24
25	26	27	28	29	30	

December

Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
						1
2 Hanukkah (begins)	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25 Christmas Day	26	27	28	29
30	31					

ECA Articles

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