



**TESTIMONY
ON BEHALF OF THE ENERGY COMMUNITIES ALLIANCE**

OF

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**BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE**

REGARDING

**S. 1240
THE NUCLEAR WASTE ADMINISTRATION ACT OF 2013**

**A BILL TO ESTABLISH A NEW ORGANIZATION TO MANAGE
NUCLEAR WASTE, PROVIDE A CONSENSUAL PROCESS FOR SITING
NUCLEAR WASTE FACILITIES, ENSURE ADEQUATE FUNDING FOR
MANAGING NUCLEAR WASTE, AND FOR OTHER PURPOSES**

July 30, 2013

Chairman Wyden, Ranking Member Murkowski and Members of the Committee, I thank you for inviting me to testify on S. 1240, a bill to establish a new organization to manage nuclear waste, provide a consensual process for siting nuclear waste facilities, ensure adequate funding for managing nuclear waste, and for other purposes. I am Chuck Smith, Council Member of Aiken County, South Carolina, and Vice Chairman of the Energy Communities Alliance (ECA), the association of local governments and Community Reuse Organizations that are adjacent to, impacted by, or support Department of Energy (DOE) activities. The testimony I present to you today is on behalf of ECA's members, the local elected and appointed officials at sites that send and receive nuclear waste, and sites that may potentially host a future consolidated storage facility, reprocessing facility or geologic repository. ECA appreciates the efforts made by Chairman Wyden, and Senators Murkowski, Feinstein and Alexander to introduce bipartisan legislation and to make nuclear waste management a priority. *ECA supports the goal of the legislation—to create a process to address nuclear waste.*

ECA communities have been home to federally-owned and operated nuclear facilities for over half a century. Local communities like mine currently store high-level defense nuclear waste, and have operated on good faith based on federal law, as codified in the Nuclear Waste Policy Act (NWPA), that the waste would ultimately be disposed of in a geologic repository. As hosts of DOE sites where this waste has been produced and stored, our communities have unique health and safety concerns. As potential hosts of future nuclear waste management and disposal facilities, we play a critical role in mitigating concerns through outreach and public education.

Local governments and others around ECA member sites meet together regularly to discuss how local governments and communities can work with each other and as partners with States and the federal government to address the nuclear waste problem. In addition, the communities have met with DOE and private companies to highlight key issues such as what does consent based siting mean and what are the resources that the communities need to be able to engage at a local and national level on this critical issues.

As you consider this legislation, ECA offers the following recommendations:

- 1. Local governments that are or may become hosts must be included throughout the entire decision-making process.**
- 2. A consent agreement between local government, state and a federal entity must be legally enforceable and reflect the terms and conditions under which a community will agree to host a nuclear waste facility.**
- 3. On governance, local communities need to better understand how a new comprehensive nuclear waste policy will be implemented and by whom.**
- 4. Disposition of defense waste must be considered a priority.**
- 5. Resources must be provided for educating local communities on the technical, health and safety and other issues related to nuclear waste.**
- 6. Legislation must consider and address the impacts of transportation on local governments.**

Local governments are engaged on this important issue since it directly impacts our communities.

- 1. Local governments that are or may become hosts must be included throughout the entire decision-making process.**

ECA supports the role for local governments outlined in the legislation specifically a consent-based siting process based on sound science, “meaningful collaboration with affected communities,” flexibility, and transparency.

Several local governments have identified that, if a site is deemed safe and suitable, and if certain conditions are met, the local community may be willing to accept a high-level waste and used nuclear fuel storage and/or disposal mission. The key conditions for local governments

are (1) to be involved in the entire decision-making process and (2) to be provided with the resources necessary to **ensure** local government involvement.

Local governments considering hosting nuclear waste storage and disposal facilities need to become educated on nuclear issues. In turn, they must also educate citizens within their communities and work with their state governments to ensure everyone is involved in the decision. The local community that hosts a facility should know as much as they can about the health, safety and other issues that are inherent in hosting a site. Support can only be built if a potential host community understands the process, can choose independent experts to supply scientific data, and most importantly, if they trust that their interests, concerns and priorities are being meaningfully considered.

Once a community determines it is interested in hosting a new facility, the local government remains responsible for outreach to the community, as well as to state, regional and federal decision-makers. History has shown that support will be needed at all these levels to successfully site a new nuclear facility.

2. A consent agreement between local government, state and a federal entity must be legally enforceable and reflect the terms and conditions under which a community will agree to host a nuclear waste facility.

ECA supports the consent-based siting process outlined in the legislation. We agree that a successful siting process must allow “the affected communities to decide whether, and on what terms, the affected communities will host a nuclear facility,” in order to build long-lasting support.

Our members met recently to discuss how a consent-based agreement would be defined, concluding that there is no one-size fits all consent agreement – rather the terms of a consent agreement will be specific to each potential host community and State, as negotiated with the federal government. As part of a consent agreement, ECA agrees that local governments should broadly consider:

- Financial compensation and incentives.

- Economic development assistance.
- Operational limitations or requirements.
- Regulatory oversight authority.

ECA recommends that the strength and terms of the linkage between storage and disposal programs should be negotiated between the federal government, the State and the local government and included in the consent agreement.

In addition, ECA suggests that potential hosts may want to negotiate additional conditions to include in a consent agreement, such as:

- Amending existing compliance agreements or statutory limitations.
- An enforceable deadline for removing nuclear waste from a storage facility.
- Volume limitations.
- Penalties to be incurred by the federal government and/or State for failure to meet obligations under the consent agreement.
- Triggers for termination of the consent agreement.
- Agreement of indemnification to allow local communities to be compensated for any accidents or releases that impact their community.
- Opportunities for universities and community colleges related to future nuclear energy missions and workforce development.
- Research and development projects in coordination with national laboratories.
- Designation of transportation routes to a storage facility or repository.
- Requiring a position on any proposed oversight board and/or an advisory committee.

Local governments are uniquely positioned to negotiate these conditions on behalf of the impacted community; as is a Governor for the impacted State. If their conditions are met, a local community may be willing to accept a High-Level Waste (HLW) and Spent Nuclear Fuel (SNF) disposal mission.

ECA agrees that, once negotiated, the consent agreement should be ratified by law, binding on all parties, and not amended or revoked except by mutual agreement by the parties.

3. On governance, local communities need to better understand how a new comprehensive nuclear waste policy will be implemented and by whom.

Regardless of whether DOE, a new FedCorp, or the new Nuclear Waste Administration outlined in this bill is responsible for implementing the nuclear waste management program, there needs to be:

- Clear legislative authority.
- Appropriate autonomy.
- Oversight mechanisms.
- Access to required funding.
- Transparent decision-making.

Our members are concerned about the length of time it will take to formally create this new entity and a new regulatory structure. For communities currently storing nuclear waste, delays could result in elevated risks to human health and the environment. As a result, these communities should be given resources to mitigate impacts of storing waste longer than expected.

In regards to the Oversight Board, ECA appreciates changes made from the discussion draft to move from three federal officials to five members selected through Presidential appointment and Senate confirmation. ECA urges that a local government representative be appointed to serve on the Oversight Board to ensure local and community perspectives and concerns are identified and represented.

4. Disposition of defense waste must be considered a priority

ECA recommends that legislation address the management and disposal of legacy waste with more urgency. We do appreciate that the bill differs from the discussion draft in that the Secretary of Energy will have one rather than two years to determine whether to reevaluate the decision to commingle defense waste from nuclear waste from civilian nuclear power reactors; however, the legislation still fails to outline how or when decisions regarding defense nuclear waste will be made. Many local communities have become *de facto* storage sites for this legacy

waste, some being stored in old tanks such as the ones at Hanford and Savannah River. The nation's defense waste is older and colder than the commercial spent fuel, it has no value as it can never be reused, and can be more easily transported to a storage or disposal facility. Failing to prioritize its disposal increases the risk to human health and the environment, adversely affects DOE's Office of Environmental Management cleanup program and the costs associated with legacy management. These local communities need to be given resources to evaluate the impacts of keeping this waste in place for longer than originally planned. Much attention is paid to the liabilities associated with the government's failure to take title to commercial SNF, but the government also has an obligation to clean up defense sites. Further delays could violate legal commitments the federal government has made with the State and could cause taxpayer dollars to be spent on fines and litigation instead of invested in cleanup.

5. Resources must be provided for educating local communities on the technical, health, safety and other issues related to nuclear waste.

Funding is needed to develop public outreach programs, to educate stakeholders, government officials in county, city and town agencies, students, employees and individuals involved with emergency response and average citizens. Funding will also allow a community to bring in experts it trusts and whose responsibilities are to that community.

Outreach programs will ensure local communities understand the proposed project, the health and safety issues, the real vs. perceived risks, and will provide awareness of potential benefits – such as job creation or infrastructure development. Education and outreach efforts may include: hosting meetings in the community; creating public information campaigns; coordinating programs with local universities and community colleges; building websites and producing written material for distribution.

These programs must start as early as possible in order to determine if enough support exists within a community for it to volunteer for a nuclear waste mission.

6. Legislation must consider and address the impacts of transportation on local governments

While the bill specifically states that notification, financial and technical assistance be provided to State and Indian tribes for transportation planning purposes, local governments are not mentioned. In order to maintain the strong track record that exists for transporting nuclear waste, resources should also be provided at the local level for training, equipment, emergency responders and public education. This will help ensure consistency among all affected parties as waste moves across the country.

Conclusion

ECA recognizes the challenges associated with developing a nuclear waste policy and siting waste facilities. This legislation reflects the hard work done to address these challenges and implement the Blue Ribbon Commission's recommendations. From the energy communities' perspective, there are some outstanding questions that need to be explored further, such as what will happen with Yucca Mountain? Who will determine "who is local" in terms of affected parties and on what basis? Why was an independent government agency chosen rather than a FedCorp? What does the Committee see as the advantages?

We hope to work with the Committee and other nuclear stakeholders to provide input on these issues.

In closing, ECA appreciates the opportunity to provide this testimony. We applaud this Committee's work to address nuclear waste management and implement the recommendations of the Blue Ribbon Commission. Our members agree that nuclear waste management is a priority, and a failure to address it increases the risks to the health and environment of our communities. It also threatens our energy security, impacts the economics of nuclear power as a viable energy resource, and limits prospects for new nuclear development in keeping with an "all of the above" strategy.

ECA looks forward to providing any assistance we can as your work continues. More information about the Energy Communities Alliance can be found at www.energyca.org.