

# DOE Response to ECA on Land Transfer Rule



ECA just received two letters from DOE in response to ECA's concerns regarding the Final Rule on land transfer issue. See the letters [here](#).

Mayor Beehan in his letter raised several concerns including:

1. Lack of Public Input
2. Concern about the changes in the language of the rule impacting certain defense nuclear facilities
3. DOE's need to process land transfer requests in a timely manner (due to DOE deleting the requirement to respond in 90 days)

In a letter written to ECA from the DOE Acting General Counsel Fygi, he explained that DOE will not change the way it processes land transfer requests and that all DOE "defense nuclear sites" that are eligible prior to the change in the rule are still eligible.

Specifically, the letter states that "the addition of the terms 'closed or downsized' simply reflects that if a defense nuclear site has land that is unneeded, temporarily underutilized, or underutilized and the Department determines to consider transferring or conveying the land, this would be considered 'downsizing.' If there is land that is located on a defense nuclear facility, and is not subject to a land withdrawal order issued by the Department of Interior, then that property can be considered for transfer and reuse."

In a letter written to Mayor Beehan from DOE Deputy Undersecretary Klaus, DOE states:

"Given that the Final Rule cannot be withdrawn and reopened for public comment or amended to address the issues you raise without initiating a new rulemaking procedure, I hope that the response I am providing today will be sufficient to resolve your concerns.

Your letter raises two related concerns: that there were 'significant changes' in the Final Rule from the Interim Final Rule on which public comment was received, and that it was published without eliciting additional public comment. Prior to issuing the Final Rule, an assessment was made that determined the changes were non-substantive in nature. The enclosed letter from the Deputy General Counsel to Mr. Kirshenber explains why these changes are considered non-substantive and will therefore not alter the way in which land transfer requests are processed or which land is eligible under the Rule. I believe this letter addresses the concerns you raise in your letter regarding the content of the Rule, as well as the process.

The Department values our collaborative working relationship with ECA and its members. It has a long history of working in partnership with local communities, including yours, to transfer real property to promote economic development. Over the past several years, as a result of

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mission changes, the Department has transferred hundreds of acres to help stimulate local economies resulting in the construction of industrial parks, office complexes and other facilities, generating jobs and tax revenue. We are proud of our efforts to support local economic growth as the Department's mission evolves and will continue to work closely with local governments in the process.

We understand that communities have submitted requests for land transfers to the Department and that it is important for the Department to act on these requests more quickly. The Department is taking steps to improve the timeliness of our review process and we are committed to working with each requestor to approve mutually beneficial land transfer requests, and we continue to strive to improve our process.

I hope that this information clarifies the application of the Final Rule and helps address the ECA's concerns. The Department looks forward to continuing to work with the ECA, Community Reuse Organizations, local communities, tribes and other stakeholders to convey unneeded land for beneficial reuse."

