

**CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA**

**WILLIAM L. KOVACS**  
SENIOR VICE PRESIDENT  
ENVIRONMENT, TECHNOLOGY &  
REGULATORY AFFAIRS

1615 H STREET, NW  
WASHINGTON, DC 20062  
(202) 463-5457

July 14, 2017

**VIA ELECTRONIC FILING**

U.S. Department of Energy  
Office of the General Counsel  
1000 Independence Ave SW, Room 6A245  
Washington, DC 20585  
(Regulatory.Review@hq.doe.gov)

**Re: Request for Information on Reducing Regulation and Controlling  
Regulatory Costs; Federal Register Vol. 82, No. 102 (Tuesday, May 30, 2017)**

The U.S. Chamber of Commerce (Chamber), the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, offers these comments in response to the Department of Energy's (DOE) May 30, 2017, 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to identify existing regulations, paperwork requirements, and other regulatory obligations that can be modified or repealed, consistent with law, to achieve meaningful burden reduction.

The Chamber has identified regulations that it believes the Department of Energy should repeal or modify. These regulations are particularly onerous to the business community, reducing investment and curtailing economic growth and job creation. In addition, the Chamber has identified regulatory policy at DOE that should be reformed in order to ensure that the associated regulatory provisions achieve their original intent. Finally, the Chamber believes it is important to stress the importance of Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs) and recognize DOE's leadership in ensuring that these programs continue to deliver benefits to the federal government while creating jobs and helping to grow the economy.

**1. DOE should discontinue the use of the social cost of carbon**

Perhaps as important as identifying bad regulations that should be modified or repealed is identifying bad regulatory policy that is embedded in agency programs. Once established, bad regulatory policy continues to affect future rulemakings and stacks the deck against the possibility of producing a good regulation by undermining open, transparent, careful, and well-informed regulatory processes. DOE's use of the Social Cost of Carbon (SCC) to justify energy efficiency regulations is one such bad regulatory policy.

The Chamber recommends that DOE discontinue usage of the SCC in the cost-benefit analysis for agency rulemakings, guidance, or other procedures. The SCC calculation should not be used in any rulemaking or policymaking until it undergoes a more rigorous notice, review and comment process. These arguments were more fully developed in comments filed by the Chamber and several other trade associations on DOE's Energy Conservation Standards for Commercial Refrigeration Equipment,<sup>1</sup> and more recent comments to the Office of Management and Budget on the Regulatory Impact Analysis of the Social Cost of Carbon.<sup>2</sup> Furthermore, Executive Order (E.O.) 13783 directs regulatory agencies to suspend use of the SCC for cost-benefit analysis due to the fact that it was not developed in an open, transparent manner and did not undergo peer review.<sup>3</sup>

## **2. DOE should modernize its Part 810 regulations in order to increase U.S. competitiveness and U.S. controls in the global nuclear energy marketplace**

As implemented, DOE's Part 810 regulations are not accomplishing their goals. While the Chamber is supportive of the threat reduction and trade support goals of Part 810, the associated provisions have lost their primary focus on the protection of technologies that pose a realistic proliferation risk, and have instead imposed excessive burdens on the routine commercial trade of peaceful nuclear energy technology. As such, Part 810 should be modified to reflect the realities of a competitive global market for nuclear energy with a corresponding wide availability of nuclear energy technologies from foreign sources. Instead of controlling the spread of covered nuclear technologies, the burdensome nature of the Part 810 regulations as implemented has served to divert foreign customers of covered nuclear technologies to competitive foreign suppliers. This diversion of business to overseas sources serves to reduce – rather than increase – U.S. influence on nuclear safety, security, and nonproliferation, along with U.S. technology leadership, exports, and domestic jobs.<sup>4</sup>

Unfortunately, the transfer authorization process under Part 810 remains highly burdensome, putting domestic suppliers at a disadvantage due to the DOE's less efficient, more complex, and more restrictive export authorization regime. Quite simply, this inefficient and lengthy process places U.S.-based vendors at a competitive disadvantage when compared to foreign vendors of similar technologies. By fast-tracking the approval of low proliferation risk technologies; expediting authorizations to export to countries deemed to have low proliferation risk; establishing and enforcing reasonable timeframes for processing Part 810 authorizations;

---

<sup>1</sup> See Comments of the U.S. Chamber of Commerce, American Forest & Paper Association, American Fuel & Petrochemical Manufacturers, American Petroleum Institute, Council of Industrial Boiler Owners, National Association of Manufacturers, National Mining Association, and Portland Cement Association; Docket No. EERE-2010-BT-STD-0003-0079; <http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0003-0079>.

<sup>2</sup> See Comments of the U.S. Chamber of Commerce and other trade groups and associations; Docket No. OMB-2013-0007; <http://www.regulations.gov/#!documentDetail;D=OMB-2013-0007-0100>.

<sup>3</sup> Executive Order 13783, Promoting Energy Independence and Economic Growth, Sec. 5.; <https://www.whitehouse.gov/the-press-office/2017/03/28/presidential-executive-order-promoting-energy-independence-and-economy-1>.

<sup>4</sup> See April 25, 2013, Letter from Dr. John Hamre, et al. to President Barack Obama, <https://atomicinsights.com/wp-content/uploads/Hamre-letter-to-WH.pdf>

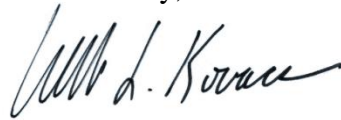
and implementing the parallel processing of authorizations with other government agencies, the DOE can make great strides toward ensuring that Part 810 fulfils, rather than obstructs, its original intent.

**3. DOE should continue efforts in delivering the benefits of Energy Savings Performance Contracts and Utility Energy Service Contracts**

The Chamber recommends that DOE continue its support of Energy Savings Performance Contracts and Utility Energy Service Contracts, which are vital alternative-financing mechanisms enabling federal agencies to procure energy services and projects without relying on appropriated funds. At no added cost to the government and with savings that are guaranteed or assured, ESPCs and UESCs assist agencies and installations in reducing their energy intensity and improving their energy efficiency. Since their inception, ESPCs and UESCs have achieved over \$16 billion in energy savings across the federal government. The Chamber has supported these job creating, commonsense initiatives for over a decade and encourages DOE to continue its efforts such as the April 28, 2017, announcement<sup>5</sup> for 21 new energy and water saving contracts.

The Chamber appreciates your consideration of these comments. If you have any questions, please contact me at 202-463-5533 or [wkovacs@uschamber.com](mailto:wkovacs@uschamber.com).

Sincerely,



William L. Kovacs

---

<sup>5</sup> <https://energy.gov/eere/articles/doe-awards-21-contracts-provide-new-and-efficient-energy-and-water-infrastructure>