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**Union of Concerned Scientists**  
Citizens and Scientists for Environmental Solutions

CHAIRMAN REC'D

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June 25, 2003

The Honorable Nils J. Diaz  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Chairman Diaz:

Thank you for taking the time to meet with Dave Lochbaum and me last week. We greatly appreciate your willingness to listen to our concerns.

I am writing to follow up on our discussion regarding the current effort by some in Congress to relax controls on highly enriched uranium (HEU) exports for medical isotope production. Amendments offered by Representative Burr (R-NC) and Senator Bond (R-MO) would overturn the Schumer Amendment requirements that recipients of US HEU for use in targets for medical isotope production commit to converting to low-enriched uranium (LEU) when feasible. If these amendments become law, they will undermine efforts to eliminate the use of HEU in commerce at a time when terrorists are actively seeking to acquire nuclear weapons for use against Americans. The Union of Concerned Scientists (UCS) and many other organizations working to reduce the threat of nuclear terrorism oppose these amendments.

I appreciate your statement that the March 31, 2003 letter sent by then-Chairman Meserve to Representative Tauzin (R-La) expressing support for the Burr Amendment did not signify that the Commission had reversed its policy supporting LEU conversion. However, it is clear that the practical impact of enactment of the Burr-Bond amendments would be to remove any incentive for the sole recipient of US HEU for isotope production targets, the Canadian company MDS Nordion, to continue an active program for conversion of its isotope production process to LEU.

If Nordion abandons its conversion program and continues to use HEU indefinitely, other isotope producers — such as Indonesia, Argentina and the Netherlands — are likely to follow its example. None of these countries has regulatory requirements for the protection of Category I quantities of HEU that are as stringent as NRC requirements, especially given that the NRC has now issued a revised design basis threat (DBT) for Category I facilities that takes into account the post-September 11 threat environment. Thus NRC's support for the Burr-Bond amendments is tantamount to

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support for a halt to target conversion efforts worldwide and acquiescence in an ongoing flow of HEU from the United States to foreign facilities with inferior physical protection.

If I understood you correctly at the meeting, you indicated that isotope producers have been lobbying Congress with the threat that if they do not get relief from the Schumer Amendment restrictions, they may seek HEU from an alternate supplier like Russia that would not require a commitment to convert to LEU as a condition of supply. However, the United States should not react to this threat by ratcheting down its own export control requirements to the Russian level (as the Burr and Bond amendments would do), but should work instead to ensure that Russia tightens its own HEU export controls so that they are consistent with Schumer Amendment goals. This could be achieved through the United States effort to establish programs in Russia modeled after the Reduced Enrichment in Research and Test Reactors (RERTR) and spent research reactor fuel takeback programs. Moreover, as you acknowledged in the meeting, the NRC has considerable latitude in implementing the Schumer amendment. This flexibility is sufficient to ensure that the law as it stands cannot jeopardize the supply of medical isotopes to those who need them in the United States.

Finally, you indicated that the Commission would be undertaking further deliberations on this issue. However, the matter is time-sensitive and requires the Commission's immediate attention. The Burr amendment is part of the comprehensive energy legislation that was passed by the House, and the Bond amendment may be offered in July during debate on the Senate version of this bill. Even if Senator Bond declines to offer this controversial amendment on the Senate floor, the provision may be quietly incorporated in conference following Senate passage. UCS urges the Commission to promptly reconsider its support of these dangerous amendments, which would significantly curtail the Commission's authority to regulate exports of strategic special nuclear material. The United States cannot fight the war on terrorism with one hand tied behind its back.

I look forward to a detailed response to this letter as soon as possible. I appreciate the offer that you made to meet with UCS again to further discuss this matter, and hope that such a meeting can be arranged in the near future.

Sincerely,



Dr. Edwin S. Lyman  
Senior Scientist  
Global Security Program