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To: Schlueter, STP

AUTHOR: Barbara Hamrick  
AFFILIATION: CA  
ADDRESSEE: Norm Coleman  
SUBJECT: GAO report on RAM smuggling

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Organization of Agreement States

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April 4, 2006

The Honorable Senator Norm Coleman  
Chairman, Permanent Subcommittee  
On Investigations  
Committee on Homeland Security and  
Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

I am writing on behalf of the Organization of Agreement States (OAS) Executive Board, to supplement information provided to you in the March 28, 2006 report by the U.S. Government Accountability Office (GAO), "Border Security: Investigators Successfully Transported Radioactive Sources Across Our Nation's Borders at Selected Locations" (GAO-06-545R). The OAS Executive Board has some concerns regarding the information provided in the report that we believe should be included in any deliberations respecting the commercial availability of radioactive material.

The OAS is a voluntary, scientific and professional society comprised of management and staff level representatives from those states (Agreement States) that regulate radioactive materials within their state borders under an agreement with the U.S. Nuclear Regulatory Commission (NRC). Our organization is committed to the improvement of radiation regulation and fostering cooperation and collaboration among the Agreement States and with the U.S. NRC and other Federal agencies to provide a comprehensive and coherent system of regulation of radioactive materials.

As GAO correctly notes in the March 28, 2006 report, radioactive materials are used in a variety of industrial, scientific, and medical applications." For nearly 50 years the Agreement States have partnered with the NRC (formerly the Atomic Energy Commission) to regulate these uses and protect the public health and safety from the misuse of these materials.

Since the events of September 11, 2001, the Agreement States have worked closely with the NRC to enhance the control of certain radioactive materials that could pose a significant threat to health and safety if used for malevolent purposes. These enhanced controls do not extend to all types or amounts of radioactive materials, nor should they. The regulation of radioactive materials is a risk-informed system of control, which

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*Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin*

affirmatively acknowledges that not all radioactive materials warrant the same type or level of restrictions. This is also a concept affirmatively acknowledged by the International Atomic Energy Agency (IAEA). The enhanced controls implemented by the Agreement States in partnership with the NRC are consistent with IAEA guidance.

While the OAS Executive Board understands the serious implications of the potential of using falsified records to illegally import significant quantities of radioactive material into the United States, we are very concerned about the GAO's characterization of the material's actually "smuggled" across the Canadian and Mexican borders into the United States. Although the GAO report does not expressly state the amount and type of material, it has subsequently been acknowledged that it was 150 microcuries of cesium-137 in the form of "check sources."

GAO characterized this material as "enough...to make two dirty bombs." This information is very seriously misleading; and, in fact, contributes to the public misperceptions about radioactivity that will be the very source of the "disruption" that the GAO report predicts would ensue from the detonation of a dirty bomb. In other words, the GAO report helps to ensure that public panic would follow upon the detonation of a bomb containing insignificant quantities of radioactive material. The OAS Executive Board agrees with NRC Chairman Nils Diaz, who stated in his March 29, 2006 letter to you that "[the sources used by GAO in this investigation] are several orders of magnitude from being risk-significant," and further encourages you to advance efforts to provide credible information to the public, such that we can avoid an unnecessary and potentially dangerous reaction to an insignificant public health risk.

Additionally, the OAS Executive Board is concerned that the GAO report did not indicate whether the U.S. Customs and Border Patrol (CBP) agents knew the risk-significance of these sources. This issue is critical to the evaluation of the controls already in place to protect our borders. If CPB agents made an informed decision to allow these sources into the country, the system has not been tested, and the results of GAO's investigation are not meaningful with respect to the vulnerability of our borders to the illegal import of radioactive materials.

The OAS Executive Board and members of the OAS are working daily with NRC staff to continue to identify potential gaps in our joint regulation of radioactive materials. It is important that this work remain focused on the risk-significant sources that are used routinely in medicine, academia and industry, such that we ensure the most risk-significant sources are appropriately controlled, while not impeding medical treatment and research, or unnecessarily burdening industry. NRC Chairman Diaz outlined many of the actions that have been taken, or are being taken, by the NRC and the Agreement States. The OAS supports these efforts by identifying Agreement State staff with the appropriate expertise in the areas being addressed to work with the NRC, and

coordinating comments and input from all 34 Agreement States to ensure these efforts will be effective nationwide. We encourage you and the Committee members to include the issues raised here and in NRC Chairman Diaz' letter of March 29, 2006 in your deliberations on the issue of border security as it relates to radioactive materials.

I would be happy to discuss these issues with you further at your convenience.

Sincerely,

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