

# **THE CONGRESSIONAL ASSAULT ON RERTR**

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# THE THREAT TO RERTR

- Since 9/11, there is a growing appreciation of the importance of the RERTR program and the effort to eliminate HEU commerce
  - DOE support of the “Accelerated RERTR” program
- But some legislative developments run contrary to this trend --- could result in loopholes that block completion of RERTR agenda
  - Current attempt in Congress to weaken US HEU export controls by modifying the “Schumer Amendment”
  - Right-wing criticism of DOE plan to convert US research reactors in the House of Representatives

# THE “SCHUMER AMENDMENT”

- “Schumer Amendment” to 1992 Energy Policy Act permits US to export HEU for research reactor fuel or targets only if
  - no LEU fuel or targets that “can be used” are available
  - recipient commits to switching to LEU fuel or targets when they become available
  - US is actively developing LEU fuels or targets
- Where “can be used” means that
  - the fuel or target has been qualified by RERTR; and
  - use of the fuel or target will not lead to a “large percentage increase in the total cost of operating the reactor”

# IMPACT OF THE SCHUMER AMENDMENT

- The Schumer Amendment provided a major incentive for recipients of US HEU to cooperate with RERTR and seriously pursue conversion
  - Petten fuel conversion program
  - Design of MAPLE reactors to use LEU fuel
  - Conversion of Mo-99 production targets in Argentina
- But success is not complete
  - FRM-II
  - Conversion of AECL/Nordion Mo-99 production targets

# THE “BURR AMENDMENT”

- In March 2003, Congressman Richard Burr (R-NC) introduced an amendment to the Energy Policy Act of 2003 that would exempt certain HEU exports for “medical isotope production” from Schumer amendment conditions
  - reactor must use LEU fuel or be the subject of an agreement with the US Government to convert to LEU fuel when available
  - potential recipient countries named as Canada, the Netherlands, Belgium, France and Germany, but in fact any country that is a signatory of the NPT and the Physical Protection Convention and has a nuclear cooperation agreement with the US would qualify
- Burr and others lobbied by the Council on Radionuclides and Radiopharmaceuticals (CORAR) that Schumer Amendment is jeopardizing isotope supply
- But who in fact benefits? Only AECL/Nordion.

# AECL/NORDION'S RECORD OF SCHUMER COMPLIANCE

- 1990: AECL announces plan to phase out use of “fresh” HEU for Mo-99 production by 2000
- 1996: Decision was made to proceed with construction of MAPLE reactors and a New Processing Facility (NPF) that was “custom designed and solely dedicated to the processing and extraction of Mo-99 from HEU targets” (G. Malkoske, this conference)
- 1999: NRC authorizes export of 130 kg of HEU targets over 5 years for MAPLE, but imposes annual limits and requires annual conversion progress report from Nordion
- 2000: identified waste management issues associated with the greater U throughput in NPF as the most problematic

# AECL/NORDION'S RECORD OF SCHUMER COMPLIANCE (cont.)

- 2000: delay in commencement of Mo-99 production in MAPLE reactors that continues to this day; NRC reduces amount of HEU authorized for export to 90 kg
- 2000-present: AECL/Nordion fails to take advantage of delay in MAPLE commissioning by
  - expediting solution of NPF waste problem so that any modifications could be made before the facility went hot
  - pursuing qualification of LEU targets in parallel with HEU targets
- 2002: AECL/Nordion requests that NRC eliminate the annual limits on HEU target exports for MAPLE and restore the original 130 kg total; NRC grants request
  - Does AECL/Nordion fear a future HEU cutoff (i.e. it will not qualify for economic exemption in Schumer amendment)?

# AECL/NORDION'S RECORD OF SCHUMER COMPLIANCE (cont.)

- 2002-2003: Nordion “bails out” of conversion program and starts lobbying for Burr amendment
  - Membership of CORAR “Committee on Isotope Supply” includes
    - Grant Malkoske and Iain Trevena of Nordion
    - Dale Simpson of Tyco Healthcare/Mallinckrodt
    - Attorney James Glasgow as “consultant – legislative language”
    - Lobbyists Jim Massie and Richard White of the Alpine Group (have received \$1.9 million from CORAR since 1997)
  - The simple fact that Nordion is spending tons of money to kill the Schumer amendment is reason enough to conclude that it is not making a good-faith effort to comply with it

# **BURR AMENDMENT: HISTORY AND STATUS**

- April 2003: Energy bill containing Burr provision voted out of committee in House
  - Senate counterpart has no comparable provision
  - NRC signals lack of opposition
- June 2003: Sen. Kit Bond (R-MO) plans to offer provision as an amendment during Senate debate of energy bill, but Senate votes for last year's bill without any new amendments
- Sept. 2003: House-Senate conference committee meets and produces draft of energy bill that contains Burr provision in brackets

# **BURR AMENDMENT: HISTORY AND STATUS (cont.)**

- Oct. 9, 2003: Energy bill conference vote delayed until at least January (?)
- Even if the energy bill fails to become law, the Burr amendment may return in some other guise, unless enough opposition arises in the meantime
- Signs of growing bipartisan opposition to weakening US exports of special nuclear material

# CONSEQUENCES OF BURR AMENDMENT

- If Burr amendment becomes law, AECL/Nordion will be able to continue to receive HEU indefinitely without honoring its commitment to convert to LEU targets
  - NRC would likely have to suspend its requirement that Nordion provide annual progress reports
  - AECL/Nordion would likely end all cooperation with ANL
- Other suppliers not directly affected by US export law (Mallinckrodt) will experience no indirect pressure to convert
- Ultimately, other current or future isotope suppliers may seek HEU from the US

# FUTURE REMEDIES

- If the Burr amendment becomes law, other remedies may be available to restore momentum for target conversion:
  - imposition of tariffs that give an advantage to import of isotopes produced with LEU targets --- perhaps will give Mallinckrodt an advantage (good experience with converting similar CNEA process)
  - high-level government agreement among isotope supplier states to proceed with conversion simultaneously to preserve “level playing field”
  - development of new sources (e.g. domestic US supply)