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Joan Claybrook, President

February 4, 2004

Councilmember Carol Schwartz, Chair, Committee on Public Works and the Environment  
Councilmember Kathy Patterson, Committee on Public Works and the Environment  
Councilmember David Catania, Committee on Public Works and the Environment  
c/o Ms. Phyllis Jones  
Secretary to the Council  
1350 Pennsylvania Ave NW, Suite 5  
Washington, DC 20004

Re: Statement on Bill 15-525, "Terrorism Prevention and Safety in Hazardous Materials Transportation Act of 2003"

Dear Councilmembers Schwartz, Patterson, and Catania:

Public Citizen is a national, non-profit, consumer advocacy organization based in Washington, DC. It was founded in 1971 and is supported by more than 150,000 members across the country. Our Critical Mass Energy and Environment Program works closely with local, state-level, and national organizations on nuclear energy and nuclear waste issues. Our comments on the discussion draft of DC Bill 15-525, the "Terrorism Prevention and Safety in Hazardous Materials Transportation Act of 2003," follow.

First of all, we would like to indicate our support for the intentions of this bill. Common sense measures that significantly decrease dangers to the general population, such as those posed by many of the hazardous materials that are routinely transported to and through the District, are in the interest of the majority of affected constituencies and stakeholders. The shipments banned by this bill pose a distinct public health and safety threat, and as such ought to be rerouted around such high-profile and high-casualty targets as are located in downtown Washington.

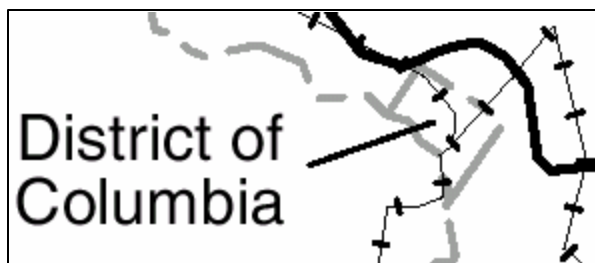
As it is currently written, Bill 15-525 does not ban the shipment of radioactive waste through the District. It is clear, given the extent to which the chlorine industry is fighting this proposed legislation, that including nuclear materials in the bill would invite opposition from yet another well-financed industry. As such, it seems to make sense to exclude nuclear materials from Bill 15-525 at this point so as not to jeopardize the chances such a worthwhile bill might become law. To include nuclear materials in the ban as an *amendment* to the original language, however, would be an important step in protecting public health and safety.

**Ralph Nader, Founder**

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If the intention of this bill is to reduce the availability of ready terrorist targets in the District, then inclusion of nuclear materials in the ban, especially high-level waste, is critical. The damages from an attack on a spent fuel canister passing through Washington could be catastrophic, resulting in casualties as well as, probably more devastating in this case, crippling economic damage to the region and a severe blow to the nation's psyche.

The Yucca Mountain nuclear waste repository is scheduled to open 90 miles northwest of Las Vegas and begin accepting shipments in 2010. According to the Final Environmental Impact Statement for the Yucca Mountain repository, if a mostly rail shipping scenario were adopted—which is currently favored by the nuclear industry and the U.S. Department of Energy, but has not been finalized—312 train shipments of highly radioactive spent nuclear fuel would pass through the District en route to Nevada over the course of the twenty-four-year shipping campaign.



**Proposed Yucca Mountain rail routes through the District of Columbia** (from Yucca Mountain FEIS)

The casks that would contain the spent nuclear fuel are certainly vulnerable to rupture in the event of an accident or attack. While all cask designs used for shipping high-level radioactive waste are licensed by the U.S. Nuclear Regulatory Commission (NRC), the tests used in granting that license are woefully inadequate and do not always conform to real-world conditions. For example, the burn test only requires the cask to withstand fires that reach temperatures of 1475° F, while the Baltimore train tunnel fire in July 2001 far exceeded that. Additionally, the casks are only tested up to the arbitrary standards set by the NRC, not to failure, so there is no understanding of the actual limits on conditions the casks can safely handle. The tests do not include a mock terrorist assault with modern weaponry such as a shoulder-fired missile launcher – something readily available on the black market. Full-scale models are not tested; only computer and scale models are used. Finally, quality assurance programs are either absent or inadequate. In a July 2000 audit, Oscar Shirani, a quality assurance inspector for Exelon and whistleblower, found nine separate quality assurance violations in the manufacture of the Holtec cask, each of which could threaten the structural integrity of the cask.<sup>1</sup> In other words, even if the casks are well-designed, they are not necessarily well-manufactured.

According to analysis<sup>2</sup> by Dr. Marvin Resnikoff, Matthew Lamb, and Beat Hintermann of the firm Radioactive Waste Management Associates, sabotage of a rail cask in an area of high population density could cause up to 253 latent cancer fatalities.<sup>3</sup> It is likely that hundreds or

<sup>1</sup> See <http://www.citizen.org/pressroom/release.cfm?ID=1465>.

<sup>2</sup> Matthew Lamb, Beat Hintermann, and Marvin Resnikoff, Ph.D., *Potential Consequences of a Successful Sabotage Attack on a Spent Fuel Shipping Container: An Analysis of the Yucca Mountain EIS Treatment of Sabotage*, Radioactive Waste Management Associates; April 2002. A copy is enclosed. <http://www.citizen.org/documents/resnikoff.pdf>

<sup>3</sup> *Ibid.*, Table 11. According to the 2000 census, the population density for the District of Columbia as a whole is approximately 3,800 persons/km<sup>2</sup>, but a substantial number of people congregate in the Capitol Hill area during workdays, leading to the assumption that the concentration of people in the area could match or exceed the assumptions in the report if an attack were so timed.

thousands more would be exposed to harmful levels of radiation leading to non-fatal cancers, birth defects, and other maladies.

While the human effects of an attack are devastating and would likely be felt across the nation and around the world, especially if members of Congress or other high-profile public officials were affected, the most crippling outcome of such sabotage is economic. According to the same study, using relatively conservative estimates of population density and contamination levels, economic impacts from cleanup costs to lost business and property, loss of productivity, litigation, and stigma, the total cost of dealing with the sabotage of a rail cask containing high-level radioactive waste could reach **\$178 billion** in year 2000 dollars.<sup>4</sup> Again, since the population density in DC is almost three times the figure used for this calculation, the actual cost of cleanup would likely be much higher. The cost of this burden would be borne by the U.S. Department of Energy, which would be responsible for the shipment, and therefore taxpayers would be forced to pick up the astronomical tab.

As mentioned previously, the mode of transportation has not been finalized, but all indications are that rail will be chosen, possibly soon. Neither have specific routes yet been officially selected; those cited here and in the Final Environmental Impact Statement for Yucca Mountain are the routes analyzed by DOE for the proposed action. As such, it is not too late to have an influence on the choices made regarding transportation routes. Passing an amendment to Bill 15-525 banning radioactive waste from traveling through the District would be an important step in ensuring DOE pays appropriate attention to safety and security concerns surrounding nuclear waste shipments.

While critics of this bill have charged that it may set a precedent for other communities to bar shipment of hazardous materials, perhaps that is exactly the point. If so many towns, cities, counties, and other jurisdictions feel threatened by the dangers posed by hazardous materials and nuclear waste shipments, maybe that is a sign that we have all been a little too cavalier and confident about the dangers associated with them. We may have to reevaluate the need for so many shipments, or step up efforts to find alternative means to accomplish the tasks performed by vital but dangerous chemicals and compounds.

I appreciate the opportunity to provide comments on this issue. If you have any questions concerning the information I have supplied, please feel free to contact me by phone at (202) 454-5130 or via email at [bhoffman@citizen.org](mailto:bhoffman@citizen.org)

Sincerely,

/s/

Brendan Hoffman  
Organizer, Nuclear Energy & Waste  
Critical Mass Energy and Environment Program

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<sup>4</sup> Lamb, Hintermann, and Resnikoff, Table 19(c). <http://www.citizen.org/documents/resnikoff.pdf>