



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

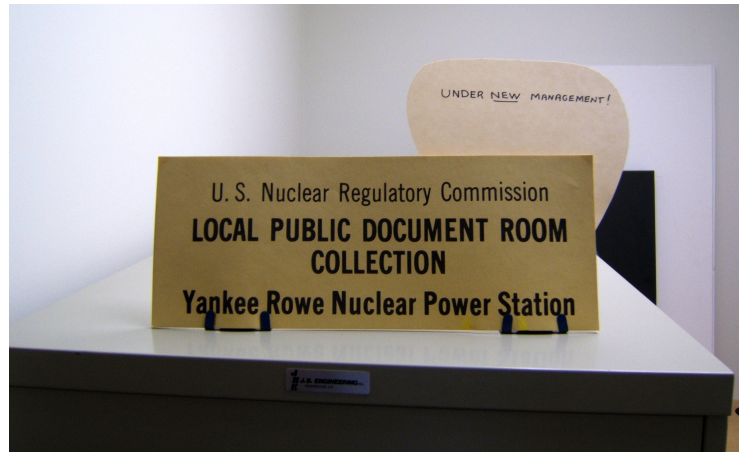
November 28, 2006

Dr. Dale E. Klein, Chairman
Mr. Edward McGaffigan, Jr., Commissioner
Mr. Jeffrey S. Merrfield, Commissioner
Dr. Gregory B. Jaczko, Commissioner
Dr. Peter B. Lyons, Commissioner
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

**SUBJECT: NRC STATEMENT DATED NOVEMBER 24, 2006, ON INFORMATION AVAILABLE
IN LOCAL PUBLIC DOCUMENT ROOMS**

Dear Chairman Klein and Commissioners:

Yesterday, the Nuclear Regulatory Commission (NRC) posted a six-sentence statement dated November 24, 2006, to the "For The Record" section of the agency's website regarding access to information in local public document rooms and public libraries across the nation, but no longer available to the public from the NRC's own Public Document Room and its website. As the curator for the Union of Concerned Scientists (UCS) of the Local Public Document Room Collection for the Yankee Rowe Nuclear Power Station (see picture), I have a keen interest in the matter. Unfortunately, that interest does not enable me to understand four of the anonymous statement's six sentences. If you would be so kind as to explain to me what was meant, or pass it along to whoever authored it so that person could explain it to me, I would greatly appreciate it. The six statements:



1. *In the aftermath of Sept. 11, the Nuclear Regulatory Commission took action to limit the amount of information on commercial nuclear power plants available to the public.*

I understand. How could I not understand this given all the impairment and hindrance that this NRC action inflicted upon me and other members of the public as we struggled to provide substantive comments on rulemaking and risk-informed regulatory proceedings.

2. *The NRC is aware that a limited amount of information continues to exist in the public domain.*

I understand.

3. *However, NRC believes that the usefulness of this information is minimal given its age and subsequent changes to and improvements in security programs and physical modifications that have been made to nuclear facilities since Sept. 11.*

I do not understand. The information is readily available in the local public document rooms and public libraries but cannot be accessed in the NRC's Public Document Room and online electronic library. The information is the same age regardless of where it is being stored – I've spot checked some and the document dates and therefore ages are identical. Likewise, the value of the post-09/11 security program improvements and physical modifications is not "high" when information from local public document rooms is reviewed and "low" when that same information from NRC's Public Document Room is reviewed – but the NRC denies the public access to this allegedly minimally useful information. The information is either useful or it is not (no "minimally useful" or "barely pregnant" semantics permitted). If the information is useful, it should not be readily available in the local public document rooms, public libraries, NRC's Public Document Room, or NRC's online electronic library. If the information is not useful, access to it should be unrestricted in all these locations. It is the content of the information, and not its location, that should determine whether it has utility that necessitates access limitations.

Additionally, we are fully cognizant of the fact that NRC knew about the ready access to materials in local public document rooms in November 2001, yet the post-09/11 security upgrades were not required to be in place until October 2005. If the upgrades have actually diminished the usefulness of the information, why didn't the NRC limit access in 2002, 2003, 2004, and the first three quarters of 2005?

4. *We would not have left this material in local public document rooms or public libraries had there been concern that it could aid adversaries.*

I do not understand. How is it possible for this material when it resides in local public documents rooms or public libraries not contain information that could aid adversaries but when it resides in the NRC's own Public Document Room or online electronic library to contain information that could aid adversaries? That material either does or does not contain information that could aid adversaries. If it does, those adversaries should not be able to readily access the information in the local public document rooms, public libraries, NRC's Public Document Room, or NRC's online electronic library. If it does not, the information should be unrestricted in all these locations. It is the material, not its location, that should determine whether access is restricted or not.

5. *The agency decided not to attempt to retrieve or restrict access to this information and instead has focused its actions on more recent and relevant information available in public electronic systems.*

I do not understand. The point involves material in the local public document rooms and public libraries with the same dates and relevance as material in the NRC's Public Document Room and online electronic library. The material in the former locations is readily available while the same material in the latter locations is unavailable. Thus, contrary to the NRC's fanciful notion, it is not the recentness or relevance or some bizarre combination thereof that dictates whether access to material is controlled. It appears to be convenience doing the dictating. When it is easy for NRC to limit access, NRC limits access. When it involves some effort, NRC does not limit access. Shameful!

6. *We can assure the public that information directly related to the security programs and protection of nuclear power plants is not in the public domain.*

I do not understand. Rather, it is my understanding that this statement is blatantly false. Consider the three documents currently available to the world in the NRC's online electronic library, ADAMS:

ML041200217: NRC e-mail dated January 15, 2003, with a 29-page attachment listing the title and date of dozens of documents related to nuclear plant vulnerabilities. The inventory includes documents like NUREG/CR-4462, "A Ranking of Sabotage/Tampering Avoidance Technology Alternatives;" NUREG/CR-2543, "A Review of Selected Methods for Protecting Against Sabotage by an Insider;" NUREG/CR-3134, "A SETS User's Manual for Vital Area Analysis;" and SAND077-0116C, "Protection of Nuclear Power Plants Against Sabotage."

ML052360536: NRC 165-page compilation of hundreds of NUREG reports in the NRC's Public Legacy Library no longer available to the public. The listing includes NUREG-0194, "Calculations of Radiological Consequences from Sabotage of Shipping Casks for Spent Fuel & High Level Waste."

ML052360538: NRC 99-page compilation of hundreds of NUREG reports in ADAMS re-coded to prevent public access. The listing includes NUREG/CR-5640, "Overview and Comparison of U.S. Commercial Nuclear Power Plants."

These three publicly-available compilations list the dates and titles of dozens, if not hundreds, of documents containing information directly related to security programs and protection of nuclear power plants. The majority of these documents are readily available via local public documents rooms and public libraries across the nation. Therefore, the public should find little assurance in this NRC lie.

I fail to understand why I cannot obtain documents from the NRC's Public Document Room that I can access from the local public document room we acquired or from any of the dozens of other local public document rooms across the nation. This profound inconsistency tells me loud and clear that NRC is wrong, either in denying access to the documents in the Public Document Room or in not restricting access to the documents elsewhere. If you could truthfully explain to me how the NRC can be right when it denies access and also right when it doesn't deny access to the same documents, I'd sure appreciate it.

Sincerely,

A handwritten signature in dark ink, reading "David O. Lochbaum". The signature is written in a cursive, flowing style.

David Lochbaum
Director, Nuclear Safety Project (and Curator, UCS LPDR)
Union of Concerned Scientists
1707 H Street NW, Suite 600
Washington, DC 20006
(202) 223-6133