



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

November 13, 2001

Mr. Michael Mariotte, Executive Director
Nuclear Information and Resource Service
1424 16th Street NW, Suite 404
Washington, D.C. 20036

Dear Mr. Mariotte:

The Commission has received your letter of concern dated October 15, 2001, regarding the temporary shutdown of the Nuclear Regulatory Commission (NRC) website for the purpose of performing a review of all the material on it. Our action in initiating a review of our website is one undertaken by many government agencies as part of an ongoing effort to thwart the information-gathering activities of terrorists. In any event, as you have likely seen, the operation of the NRC website was restored within approximately one week, on October 18. It currently makes available many categories of documents that were formerly available, including material pertinent to ongoing rulemaking proceedings.

As of this writing, the website includes information on the NRC's mission and governing legislation; how to contact NRC, the agency telephone directory; news releases; NRC regulations published in 10 CFR; current rulemakings; access to the agency document management system (ADAMS) containing more than 125,000 publicly available documents; information about NRC's Public Document Room; FOIA information; contracting opportunities; opportunities for employment, information on how to report a safety concern, the Inspector General's hotline; and materials on the Regulatory Information Conference.

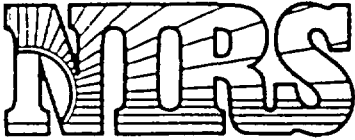
Our review of the remaining materials is going forward in a deliberate and systematic manner. We will continue to restore documents promptly as their review is completed and it is deemed appropriate to do so.

At all levels the government is continuing to do its business notwithstanding hardship or inconvenience. For NRC activities, the Commission will remain sensitive to the need for information on the part of its participants. *Cf. Consolidated Edison Co. of N. Y. (Indian Point 1 & 2)*, CLI-01-08, 53 NRC 225 (2001). While there is no cause for an across the board lengthening of schedules consideration will be given, as necessary, to the existence of special circumstances where the unavailability on the website of specified documents has actually and reasonably prevented parties to adjudication or rulemaking participants from fully or partially meeting established deadlines.

Sincerely,

Richard A. Meserve

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Nuclear Information and Resource Service

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October 15, 2001

Dr. Richard Meserve, Chairman
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Dr. Meserve:

I am writing to express our deep concern with the NRC's licensee information blackout. The NRC's October 11, 2001 closure of the agency website to expunge publicly available nuclear industry records is an alarming event.

We at NIRS, like many other citizens, are alarmed over the vulnerability and potential danger to occupational and public health and safety that terrorist attacks on nuclear power stations pose. But we are also alarmed that the NRC-initiated withdrawal of public information threatens due process, our right-to-know and to participate in our government's decision-making processes, and other fundamental tenets of a democratic society.

The NRC requirements for protection of safeguard information describes the "specific types of information, documents, and reports that shall be protected" against unauthorized disclosure. 10 CFR 73.21(b). NIRS does not object to this non-disclosure policy. However, we strenuously object to shutting down public access to other NRC documents and the screening of information access by way of an undisclosed internal NRC criteria outside the authority established in the agency's codified rules and regulations.

We find no justification under the current NRC regulations nor other federal law to justify the NRC's decision to engage in blanket withholding of basic plant information, current operating conditions, notification of NRC meetings open to the public, licensee compliance and emerging safety issues that are normally available on the NRC website. We also take issue with the filtering of public information requests to the agency's Public Document Room through an undisclosed set of criteria.

We assume that, despite the current website blackout and screening of document requests at the Public Document Room, the NRC continues to conduct business-as-usual with its licensees. However, we believe that the public also continues to have a right-to-know in such matters regarded as non-safeguard-related, including licensing proceedings, meetings with licensees and unresolved safety issues.

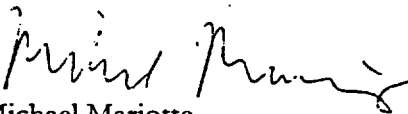
We would first like to know when the NRC intends to again conduct business-as-usual, particularly in a case such as this where the NRC has engaged in a wholesale black-out of public access to information. We believe that federal law and the United States Constitution require that the NRC conduct its business in the public arena. The NRC, like most other agencies of the federal government, is still subject to a variety of federal laws, including, but not limited to, the Sunshine Act, the Freedom of Information Act, and the National Environmental Policy Act, which require that the NRC's documents and decision-making processes be open to the public and public participation. One of the major prongs of current NRC policy is "building public confidence" in the agency's regulatory process through such means as open meetings and ready access to information.

We therefore request that NRC issue an order identifying all documents or document types the NRC intends to withhold from public access in light of the current suspension and/or subsequent to resumption of the web site and the lifting of restrictions on the Public Document Room. We request that NRC plainly state the legal basis upon which the agency justifies further denying public access to agency and industry documents currently outside the scope of 10 CFR 73.21.

We further request that the NRC honor its stated commitment to building public confidence. In light of the current lack of public access to basic licensing proceeding information, this can only be accomplished by the NRC issuing an order temporarily suspending all licensing proceedings and meetings with the industry, and extending all public comment deadlines until such time as public access to all non-safeguards related documents has been restored.

I look forward to your reply at your earliest convenience.

Sincerely,



Michael Mariotte
Executive Director

cc: Hon. Edward Markey
Diane Curran, Esq.
Tony Roisman, Esq.
Jonathan Block, Esq.
James Riccio, Esq.
Bob Backus, Esq.
Ellyn Weiss, UCS
Public Citizen Litigation Group
David Lochbaum, UCS
Dr. Marvin Resnikoff, RWMA