

From: "Baldwin, Ernest G." <ebaldwin@gpo.gov>
To: Alan Zoellner <afzoel@wm.edu>
Date: 5/8/02 3:22PM
Subject: RE: Request for clarification regarding LPDR collection status

Dear Mr. Zoeller:

Please forgive me for being rather long in getting back to you, but I have been out of the office [] In the meantime, I asked George Barnum, our Electronic Collection Manager, to look into your situation. George's reply follows:

Ex. 6

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Alan-

Thank you for your message of May 2, and for speaking with me on the phone subsequently. I believe that we can clarify things a bit with reference to the Nuclear Regulatory Commission publications brought into the Federal Depository Library Program in 1999.

First, with regard to the so-called adoption of the 48X NuDocs microfiche: In June and July of 1999, there was an exchange of correspondence between the Superintendent of Documents and the Chief Information Officer of the Nuclear Regulatory Commission, in which GPO outlined the understanding on both sides as to the disposition of the collections of the Local Public Documents Rooms. We proposed, and the NRC CIO concurred, that the 48X microfiche in LPDR libraries which were also Federal Depository Libraries, would become part of the FDLP. To quote from the letter:

"In another 31 [sic] cases, 48X microfiche collections currently reside in libraries which are selective [sic] FDLP depositories, and have agreed to retain the collections. This acquisition will bring these materials under the permanent access provisions of 44 USC 1911-1912, thus subject to the guidelines and requirements of the FDLP."

(As a note, there were actually 28 libraries in this category when the transfer took place, and six were actually regional depositories.)

At the time of this transfer, the NRC and GPO divided up responsibilities for informing various parties of the effect of this letter and the NRC CIO's subsequent concurrence. GPO communicated with the regional depositories who were to be receiving displaced collections, and NRC communicated with the LPDR/depository group. NRC also drafted the Federal Register notice, and did not share its content with us prior to its publication. It is quite clear that the information in that notice, and sent in a brief letter to LPDRs by Sandra Northern on June 22, 1999 imperfectly express the terms of

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the understanding between GPO and NRC, and I can understand your confusion about whether or not the collection at William and Mary was actually "adopted." I can provide copies of the letters between GPO and NRC for you, if you wish.

The bottom line is that the 48X microfiche ARE FDLP material, and are still considered to be public documents. To date we are not in receipt of any direction from NRC to remove or restrict any of that material from the FDLP.

Anything other than the 48X fiche that might have been in your LPDR collection, however, is outside the jurisdiction of the FDLP, and your handling of that is a strictly local decision. That is the material I was referring to in the October, 2001 message to Regional-L that your make reference to, in which I said, "NRC has alerted local licensees ... that certain documents held by the LPDRs may contain information about the facilities that is somewhat sensitive..." The only information we had was that licensees felt that items in the former LPDR collections were sensitive. We don't have a list of titles, nor would we have any reason to, since it's non-depository material that's at issue.

I am aware that licensees have opinions about information in the the 48X microfiche. We do not know with certainty what titles might be at issue. Our position on that material remains clear: unless and until we receive direction, following established procedure, from the NRC to remove information from the FDLP, the information is in the public domain and is covered by the same guidelines and requirements as the rest of the depository collection. That position, by the way, was communicated to Mr. William Renz in a letter from the Superintendent of Documents in March, 2002.

-----Original Message-----

From: Alan Zoellner [mailto:afzoel@wm.edu]

Sent: Thursday, May 02, 2002 8:41 AM

To: Baldwin, Ernest G.

Subject: Request for clarification regarding LPDR collection status

Mr. Baldwin:

Our library is a federal depository library and a former Nuclear Regulatory Commission Local Public Document Room library. We chose to keep the LPDR collection, which centers on documentation related to the Surry Nuclear Power Station, when NRC phased out the program in 1999. We are currently negotiating with Dominion Resources, the utility which operates the Surry Station, about protecting sensitive material in the collection through access restrictions for patrons.

We received a copy of a letter of March 5, 2002, sent by Francis Buckley to William Renz, Director, Nuclear Protection Services and Emergency Preparedness for Dominion, which reiterated GPO's commitment to "free and open access by the public to government information" and its opposition to removal of material from the FDLP collections or any attempt "to limit or control access to publications..." in the absence of an official request from the publishing agency for such constraints. The Buckley letter was a response to a February 7, 2002 letter to him from Renz expressing concern

about the LPDR microfiche collections held at William and Mary and the University of Virginia (the North Anna Power Station collection). Renz insists in his letter that "the microfiche contains sensitive information that necessitates the need [sic] to establish access controls."

We need to clarify several points. First, since we chose to keep our LPDR collection and are not a GPO-arranged foster parent, is our LPDR collection considered a part of the FDLP or is it entirely our property? A final rule in the Federal Register (64 FR 48942 9/19/99 describes the phaseout of the LPDR program and GPO's action in placing unretained collections in the FDLP. Does this mean that our collection, though in an FDLP library, is not considered part of the FDLP collection by GPO?

Second, on 25 October 2001, George Barnum sent an email message to regional librarians to clarify the status of the "former LPDR" documents. He asked them to pass on the message to selectives housing LPDR collections. Barnum informed the librarians that NRC "has no current plans to ask for libraries to restrict or withdraw NRC publications in the FDLP. This includes the 48X microfiche that the FDLP adopted in late 1999 when the NRC ended its Local Public Document Room program." He also makes reference to NRC alerting its licensees that certain documents held by the LPDRs may contain sensitive information but that "the specific reports identified" are not depository items. Could GPO share what specific reports these were?

We have agreed to remove from unrestricted access documents that were generated during the construction and early operation of Surry Power Station. We feel we should not have to create access controls for the 48X microfiche or the routine paper documents, many of them Federal Register reprints, that have been housed in our LPDR collection. If we were to agree to access controls on the microfiche collection, would we be considered in violation of FDLP policies, regulations, or guidelines? Finally can GPO offer any assistance to our library in the negotiations with Dominion Resources to help make the case that the microfiche collection should be available for unrestricted public access?

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