

3. AES shall, in writing, within **20 days** of the date of this order, notify the Commission (a) if it is unable to comply with any of the requirements described in the order or (b) if compliance with any of the requirements is unnecessary based on its specific circumstances. In the notification, AES shall provide justification for seeking relief from, or the variation of, any specific requirement.

Licensees shall submit their responses to B.1, B.2, and B.3 above to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, licensees shall mark their responses as "Security-Related Information—Withhold under 10 CFR 2.390."

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions on demonstration of good cause by AES.

#### IV

In accordance with 10 CFR 2.202, AES must, and any other person adversely affected by this order may, submit an answer to this order and may request a hearing on this order within 20 days of the date of this order. Where good cause is shown, the NRC will consider extending the time to request a hearing. A request for an extension of time in which to submit an answer or to request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and must include a statement of good cause for the extension. The answer may consent to this order. Unless the answer consents to this order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law by which AES or other entities adversely affected rely and the reasons as to why the NRC should not have issued the order. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies shall also be sent to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; and to AES if an entity other than AES submits the answer or hearing request. Because of possible delays in the delivery of mail to U.S. Government offices, the NRC requests that answers and requests for

hearings be transmitted to the Secretary of the Commission either by facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If an entity other than AES requests a hearing, that entity shall set forth, with particularity, the manner in which its interest is adversely affected by this order and shall address the criteria set forth in 10 CFR 2.309, "Public Inspections, Exemptions, Requests for Withholding."

If AES or a person whose interest is adversely affected by this order requests a hearing, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at this hearing shall be whether this order should be sustained.

Under 10 CFR 2.202(c)(2)(i), AES may, in addition to demanding a hearing, at the time the answer is filed, or soon thereafter, move that the presiding officer set aside the immediate effectiveness of the order on the grounds that the order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for a hearing or written approval of an extension of time in which to request a hearing, the provisions, as specified above in Section III, shall be final 20 days from the date of this order without further issuance of an order or proceedings.

If an extension of time for requesting a hearing has been approved, the provisions, as specified above in Section III, shall be final when the extension expires if a hearing request has not been received. An answer or a request for a hearing shall not stay the immediate effectiveness of this order.

Dated this 26th day of February 2010.

For the Nuclear Regulatory Commission.

**Michael F. Weber,**

*Director, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2010-4829 Filed 3-5-10; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[IA-09-068; NRC-2010-0085]

### In the Matter of Mr. Lawrence E. Grimm; Order Prohibiting Involvement in NRC-Licensed Activities

#### I

Mr. Lawrence E. Grimm was employed as a radiation safety officer at the U.S. Department of Commerce's National Institute of Standards and Technology (NIST or Licensee), Boulder, Colorado facility. NIST holds License 05-3166-05, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30 on December 19, 1966, and amended to include 10 CFR parts 40 and 70 on April 19, 2007. The license authorizes the operation of the NIST-Boulder facility in accordance with the conditions specified therein. Mr. Grimm was listed on the license as the radiation safety officer (January 18, 2007, Amendment 27, until the issuance of Amendment 33, on January 16, 2009).

#### II

On July 22, 2008, the United States Nuclear Regulatory Commission's Office of Investigations (OI) initiated an investigation to determine if Mr. Grimm willfully failed to provide complete and accurate information to the NRC in a license amendment application dated February 15, 2007, regarding written procedures for the safe use of radioactive sources and security of material. A predecisional enforcement conference was held on January 7, 2010, with Mr. Grimm to obtain Mr. Grimm's perspective on the apparent violation.

Based on a review of information from the investigation and information provided during the predecisional enforcement conference, a violation of the NRC's rule prohibiting deliberate misconduct, 10 CFR 30.10, was identified, with two examples, involving the dosimetry program and the security of materials, which caused the Licensee to be in violation of 10 CFR 30.9. Specifically, on February 15, 2007, Mr. Grimm submitted an amendment request to expand NIST-Boulder's licensed activities to acquire and use source and special nuclear material, including plutonium. The 2007 amendment request stated that the "Boulder facility maintains a radiation safety procedure manual entitled, 'Health Physics Instructions' (HPIs). Drawn from the Gaithersburg radiation safety procedures, these procedures cover all health physics aspects pertinent to Boulder's radiation safety

program.” Those HPIs did not cover all health physics aspects pertinent to NIST-Boulder’s program, however, because they did not address the types of materials NIST-Boulder was amending its license to acquire. Mr. Grimm stated that he had reviewed all the HPIs cited throughout the amendment request before submitting the request to the NRC, and admitted believing that they were not all appropriate for NIST-Boulder. These procedures included NIST’s Dosimetry Program Procedures HPI 2–1 through HPI 2–7. Mr. Grimm stated during the OI interviews and also during the predecisional enforcement conference that the Gaithersburg procedures were cited because it was convenient, but that the program described in the amendment request was not in place at the time of the request, and that he never intended to implement the cited procedures as written. Notably, there were no procedures in place for providing internal monitoring of occupationally exposed workers, as described in Procedure HPI 2–5 (which would have been appropriate to assess and monitor personnel exposure to plutonium). Also, there was no program in place for providing dosimetry to frequent users of the laboratory, or “public dose workers,” who did not actually work with radioactive materials, but who worked in the same laboratories while the materials were in use. Mr. Grimm admitted having the knowledge and understanding that the information provided to the NRC in the license amendment was required to be complete and accurate. Because Mr. Grimm knew that he needed to provide the NRC with complete and accurate information and knew that the information he was providing about the dosimetry program was not accurate, Mr. Grimm’s statements in the amendment request regarding the dosimetry program constituted deliberate misconduct.

The 2007 amendment request also referenced security protocols. Item 9 of the request, “Facilities and Equipment,” stated that “access to buildings and laboratories requires a coded key card” and, in the laboratories section of the amendment request it stated, “NIST laboratories require a coded key card for access.” The NRC inspection staff identified that laboratories where licensed materials were used did not have coded key card access. The NRC determined that NIST staff members and associates assigned to work in the Quantum Physics Laboratories at the NIST-Boulder facility were issued a key to the project laboratories, including the

laboratory in which the licensed materials were used and stored. The vast majority of these people were not involved in using the licensed material. The keys were not controlled in a manner to secure the material from unauthorized removal or access while in storage. While Mr. Grimm worked at NIST-Boulder for four months and acknowledged visiting the laboratory where the material would be stored prior to submitting the amendment request, Mr. Grimm stated that he did not know how the laboratory keys were distributed or controlled. In addition, Mr. Grimm stated that he never intended to rely on locked doors as a means of securing the material, because he thought the doors would be impractical to control in such a research environment. During the predecisional enforcement conference, Mr. Grimm stated that he considered the laboratory door to be a secondary barrier and he considered a lockable file cabinet and cryostat to be the methods used to ensure compliance with the regulations. While a locked container was described in the amendment requests as one of the security features, the cryostat was not. Mr. Grimm further stated that, in his opinion, security for a source in an academia situation is not predicated on doors. Mr. Grimm knew he needed to provide the NRC with complete and accurate information, and he knew his statement in the amendment request regarding security provisions for the licensed material was not complete or accurate. Accordingly, Mr. Grimm’s statements in the amendment request regarding security constituted deliberate misconduct.

### III

Based on the above, Mr. Grimm, while an employee of the Licensee in 2007, has engaged in two instances of deliberate misconduct that has caused the Licensee to be in violation of 10 CFR 30.9. Further Mr. Grimm deliberately provided to the NRC license reviewers information that he knew to be incomplete or inaccurate in some respect material to the NRC, in violation of 10 CFR 30.10. The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement to provide information and maintain records that are complete and accurate in all material respects. Mr. Grimm’s misrepresentations to the NRC caused the Licensee to violate 10 CFR 30.9 and have raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to the NRC.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission’s requirements and that the health and safety of the public will be protected if Mr. Grimm were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety, and interest require that Mr. Grimm be prohibited from any involvement in NRC-licensed activities for a period of one year from the date this Order is final. Additionally, Mr. Grimm is required to notify the NRC of his first employment in NRC-licensed activities for a period of three years following the prohibition period.

### IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission’s regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, *it is hereby ordered that:*

1. Mr. Lawrence E. Grimm is prohibited for one year from the date this Order is final from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, or order issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Grimm is currently involved in NRC-licensed activities, he must immediately cease those activities; inform the NRC of the name, address and telephone number of the employer; and provide a copy of this order to the employer.

3. For a period of three years after the one year period of prohibition has expired, Mr. Lawrence E. Grimm shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Grimm of good cause.

### V

In accordance with 10 CFR 2.202, Mr. Grimm must, and any other person

adversely affected by this Order may, submit an answer to this Order within 20 days of its publication in the **Federal Register**. In addition, Mr. Grimm and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission,"

which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at

[MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, *Attention: Rulemaking and Adjudications Staff*; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, *Attention: Rulemaking and Adjudications Staff*. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than Mr. Grimm requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by a licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland, this 1st day of March 2010.

For the U.S. Nuclear Regulatory Commission.

**Roy P. Zimmerman,**

*Director, Office of Enforcement.*

[FR Doc. 2010-4831 Filed 3-5-10; 8:45 am]

BILLING CODE 7590-01-P

## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2010-19; Order No. 415]

### Mail Classification Change

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recently-filed Postal Service request to make a minor modification to the Mail Classification Schedule. The change affects a change in terminology. This notice addresses procedural steps associated with this filing.

**DATES:** Comments are due: March 10, 2010.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on alternatives to electronic filing.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202-789-6820 or [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov).

**SUPPLEMENTARY INFORMATION:** On February 26, 2010, the Postal Service filed a notice with the Commission pursuant to 39 CFR 3020.90 *et seq.* concerning a change in classification which reflects a change in terminology from Bulk Mailing Center (BMC) to

Network Distribution Center (NDC), and revises its regulations to change the terms in Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM) and other related manuals and publications effective March 15, 2010.<sup>1</sup> The Postal Service states revisions will also be made in its service standard regulations in 39 CFR part 121 to indicate the terminology change from BMC to NDC. The Postal Service states it will concurrently file a notice explaining these changes in the **Federal Register**. *Id.* at 1.

The Postal Service indicates that the original BMC network was established in the 1970s to process mail which now includes Parcel Post, Bound Printed Matter, Media Mail, Standard Mail, and Periodicals. *Id.* However, variation in volume and changes in the mailing habits of the public and large mailers require modifications to BMC processing and transportation. *Id.* The Postal Service states in order to maximize its efficiency, changes have been made to mail flow processes through the new NDC network, and it is converting BMCs to NDCs. *Id.* at 1-2. It notes that as part of the transition to the new NDC concept, only a terminology change is being implemented now and there are no revisions to mailing standards, service standards, or processes as a result of this notice. *Id.* at 2. The Postal Service states that in the future, it intends to propose changes to the preparation, entry and deposit of mail related to the NDC concept. *Id.* The Postal Service proposes conforming Mail Classification Schedule language to replace references to the BMC, with references to the NDC.<sup>2</sup> *Id.* at 2-3.

Pursuant to 39 CFR 3020.92, the Commission provides notice of the Postal Service's filing and affords interested persons an opportunity to express views and offer comments on whether the proposed classification change is inconsistent with 39 U.S.C. 3642. Comments are due March 10, 2010.

Section 3020.91 requires the Postal Service to file notice of the proposed change with the Commission no less than 15 days prior to the effective date of the proposed change. The Notice states that the classification change is to become effective March 15, 2010.

<sup>1</sup> Notice of the United States Postal Service of Minor Classification Change, February 26, 2010 (Notice). This notice is available on the Commission's Web site, <http://www.prc.gov>.

<sup>2</sup> The Postal Service also notes that on August 3, 2009, it changed all of its applicable labeling lists to effectuate the name change from BMC to NDC. It states that mailers were given a 73-day transition period to make the appropriate changes to mailing software applications. *Id.* at 2.

The Commission appoints Paul L. Harrington to serve as Public Representative in this docket.

*It is ordered:*

1. The Commission establishes Docket No. MC2010-19 for consideration of the matters raised in this docket.

2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in this proceeding are due no later than March 10, 2010.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2010-4861 Filed 3-5-10; 8:45 am]

BILLING CODE 7710-FW-S

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549-0213.

"Checking in with the SEC's Enforcement Division"; SEC File No. 270-598; OMB Control No. 3235-NEW.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit a questionnaire to the Office of Management and Budget for approval.

The Commission intends to send the questionnaire to Securities Law Practitioners, Securities Law Professors and Securities Industry Participants. The questionnaire consists of three (3) questions. It asks participants to identify activities that they believe to be significant, to explain why and to rank the significance of the activities.

The Commission needs the information to develop a balanced, informed, and insightful perspective on the impact of the Division's activities. Ultimately, this will be used in developing a new metrics beyond Enforcement statistics, which will assist the Division in evaluating and prioritizing its activities. A secondary purpose is to create an effective medium of communication to encourage and