

March 1, 2010

IA-09-068

Mr. Lawrence E. Grimm  
[NOTE: HOME ADDRESS DELETED  
UNDER 10 CFR 2.390]

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES

Dear Mr. Grimm:

The enclosed Order is being issued because the Nuclear Regulatory Commission (NRC) has determined that you, as the former radiation safety officer for the U.S. Department of Commerce, National Institute of Standards and Technology (NIST) facility in Boulder, Colorado, engaged in deliberate misconduct when you provided the NRC with information that you knew was inaccurate or incomplete. Specifically, you failed to provide complete and accurate information to the NRC in a 2007 license amendment application that you prepared and submitted on behalf of NIST, which constituted a violation of the NRC's rule prohibiting deliberate misconduct, 10 CFR 30.10. Specifically, two examples were identified regarding the health physics instruction procedures associated with NIST-Boulder's dosimetry program and material security. Consequently, for a period of one year from the date this Order is final, you are prohibited from engaging in activities that are conducted pursuant to a specific or general license issued by the NRC.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to a civil monetary penalty.

You are required to respond to this letter and should follow the instructions specified in the enclosed Order when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Order.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC web site at [www.nrc.gov/reading-rm/adams.html](http://www.nrc.gov/reading-rm/adams.html). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. Please be aware that the NRC will include this Order, along with other significant enforcement actions, on its web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Instead of providing a response to the Order, you may request alternative dispute resolution with the NRC in an attempt to resolve this issue. Alternative dispute resolution is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. Additional information concerning the NRC's program is described in the enclosed brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Please contact the Institute on Conflict Resolution at (877) 733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through alternative dispute resolution.

Questions concerning this Order should be addressed to Roy P. Zimmerman, Director, Office of Enforcement, who can be reached at (301) 415-2741.

Sincerely,

/RA/

Roy P. Zimmerman, Director  
Office of Enforcement

Enclosures:

1. Order Prohibiting Involvement  
In NRC Licensed Activities
2. Confirmatory Order to NIST
3. NUREG/BR-0317 Alternative  
Dispute Resolution

cc (w/Enclosure 1):

U.S. Department of Commerce  
National Institute of Standards  
and Technology  
ATTN: Richard F. Kayser, PhD  
Special Assistant for Environment,  
Safety, and Health  
Building 301, Room B111  
Gaithersburg, MD 20899-1730

Mr. Joe Vranka  
Colorado Department of Public Health  
And Environment  
Hazardous Materials and Waste  
Management Division  
Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246-1530

**Distribution for Materials Escalated INDIVIDUAL Enforcement Actions**

Individual name Mr. Lawrence E. Grimm  
IA-09-068

**DISTRIBUTION: (for FINAL actions)**

RidsSecyMailCenter Resource; RidsOcaMailCenter Resource;  
**OEMail** Resource; RidsEdoMailCenter Resource;  
 RidsOgcMailCenter Resource; RidsFsmeOd Resource;  
 RidsNmssOd Resource; RidsOpaMail Resource;  
 RidsOiMailCenter Resource; RidsOigMailCenter Resource;  
 RidsOcfoMailCenter Resource; RidsRgn1MailCenter Resource;  
 RidsRgn3MailCenter Resource; **OEWEB** Resource;

<a href="mailto:Elmo.Collins@nrc.gov">Elmo.Collins@nrc.gov</a> ;	<a href="mailto:Chuck.Casto@nrc.gov">Chuck.Casto@nrc.gov</a> ;	<a href="mailto:Nick.Hilton@nrc.gov">Nick.Hilton@nrc.gov</a> ;
<a href="mailto:Art.Howell@nrc.gov">Art.Howell@nrc.gov</a> ;	<a href="mailto:Chuck.Cain@nrc.gov">Chuck.Cain@nrc.gov</a> ;	<a href="mailto:S.Woods@nrc.gov">S.Woods@nrc.gov</a> ;
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<a href="mailto:William.Jones@nrc.gov">William.Jones@nrc.gov</a> ;	<a href="mailto:Nicole.Coleman@nrc.gov">Nicole.Coleman@nrc.gov</a> ;	<a href="mailto:Christian.Einberg@nrc.gov">Christian.Einberg@nrc.gov</a> ;
<a href="mailto:Ray.Kellar@nrc.gov">Ray.Kellar@nrc.gov</a> ;	<a href="mailto:Jack.Whitten@nrc.gov">Jack.Whitten@nrc.gov</a> ;	<a href="mailto:Kerstun.Day@nrc.gov">Kerstun.Day@nrc.gov</a> ;
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<a href="mailto:Gregory.Bowman@nrc.gov">Gregory.Bowman@nrc.gov</a> ;	<a href="mailto:Robert.Summers@nrc.gov">Robert.Summers@nrc.gov</a> ;	<a href="mailto:Crystal.Holland@nrc.gov">Crystal.Holland@nrc.gov</a> ;
<a href="mailto:R4ALLEGATION.resource@nrc.gov">R4ALLEGATION.resource@nrc.gov</a> ;		

Hard copy:  
RIV Materials Docket File (5<sup>th</sup> Floor)

**ADAMS: ML100540378**

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Event 2008\Individual\_EA-09-143\_NIST\ORD IA-09-068\_NIST Plutonium Individual.doc

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<input checked="" type="checkbox"/> Publicly Available		<input type="checkbox"/> Non-publicly Available		<input type="checkbox"/> Sensitive		<input checked="" type="checkbox"/> Non-sensitive
Category A – <b>KEYWORD:</b> A.#			<b>Sensitive-</b>			
Inspector	BC:NMSA	C:ACES	RC	D:DNMS	Program Office	
RLeonardi	VCampbell	WBJones	KFuller	ATHowell, III	MBurgess	
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02/5/2010	02/10/2010	02/10/2010	02/11/2010	02/11/2010	02/18/2010	
DRA	OGC	OE	RA	OE		
CACasto	MLBarkman (Nlo)	GBowman	EECollins	RZimmerman		
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02/12/2010	02/19/2010	02/18/2010	02/22/2010	03/01/2010		

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

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IA-09-068

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, 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 1<sup>st</sup> day of March, 2010.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

/RA/

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Roy P. Zimmerman, Director  
Office of Enforcement