

Dr. Albert J. Fahey
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April 23, 2011

Mr. Thomas O'Brien
National Institute of Standards and Technology
Gaithersburg Radiation Safety Division
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Mr. O'Brien,

As you know, I am a federal employee at NIST in Gaithersburg and have been since 1995. I would like to request that the copies of the NRC Form 3 "Notice to Employees" (hereafter referred to as the "notice") that appear in several places around the NIST campus be replaced with the larger copies of the poster available free of charge from the NRC and that these notices be repositioned appropriately within the buildings where they must be displayed.

Copies of the notice, as they currently appear at NIST are printed on 8.5"x14" paper. Copies of the notice obtained directly from the NRC are printed on 11"x17" paper. The PDF version of the notice is also set up to be printed on 11"x17" paper. As the notice appears at NIST on 8.5"x14" paper it is illegible as a posted notice.

I have asked four of my colleagues, Dr. Michael Verkouteren, Dr. Joseph Conny, Mr. Mathew Staymates and Mrs. Jessica Staymates if any of them could read the notice above a water fountain in Building 217 on the first floor of the A-corridor. Each of them could read the notice if they specifically approached the notice by awkwardly leaning across the side of the water-fountain and getting to within ~10 inches of the notice. My colleagues told me that none of them considered the presentation of the notice "legible" or "prominently" posted. I concur with their assessment of the presentation of the notice. The current display of the notice at NIST runs counter to 29 CFR Part 102(d)(1) of the the federal regulations that state that:

(d)(1) Every employer subject to the Energy Reorganization Act of 1974, as amended, shall prominently post and keep posted in any place of employment to which the whistleblower provisions of the Act apply, a fully legible copy of the notice prepared by OSHA, printed as appendix A to this part, or a notice approved by the Assistant Secretary that contains substantially the same provisions and explains the whistleblower provisions of the Act and the regulations in this part.

In addition, since the nominal angular resolution of the human eye (at 20/20 vision) is 1 arc-minute, and the reduced size of the notice as used at NIST with a line spacing of approximately 2.5 mm suggests that an individual with 20/20 vision could read the small NIST version of the notice at a distance of approximately 150 mm (6 inches). This should be evidence enough that the current versions of the notice found at NIST must be replaced with the larger versions of the notice available free of charge from the NRC to assure compliance with 29 CFR Part 102(d)(1).

APR 26 2011
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Copies of NRC Form 3 may be obtained by writing to the Regional Administrator of the appropriate U.S. Nuclear Regulatory Commission Regional Office, by calling (301) 415-7232, via e-mail to forms@nrc.gov, or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

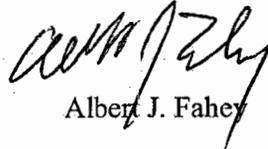
The current copies of the notice at NIST are not positioned properly for individual "engaged in NRC-licensed or regulated activities to observe them on the way to or from any particular licensed or regulated activity location to which the document applies". According 10 CFR Part 19.11(f):

(f) Documents, notices, or forms posted under this section shall appear in a sufficient number of places to permit individuals engaged in NRC-licensed or regulated activities to observe them on the way to or from any particular licensed or regulated activity location to which the document applies, shall be conspicuous, and shall be replaced if defaced or altered.

Posting the notice in an illegible form above the water-fountain, in any NIST building is not "on the way to, or from" any NIST laboratory rooms. The notice must be posted at the entrance (in the vestibule) to each NIST building where the regulated activities occur AND outside the laboratory room doors where these activities take place. The notice must be placed at eye level for someone of average height (approximately 5 feet) and must be large enough to be legible at a reasonable distance (e.g. a minimum of 1 foot).

Please act quickly to add, replace and reposition copies of the notice around the NIST campus. If I do not observe that changes have occurred at NIST within 30 days of the date of this letter to make the presentation and positioning of the notice more visible, readable, and compliant with federal regulations I will follow up with the NRC regional office.

Sincerely,



Albert J. Fahey

cc: Dr. Lisa Karam
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