

NUCLEAR REGULATORY COMMISSION

[NRC-2009-0144]

Agency Information Collection Activities: Proposed Collection; Comment Request**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).**ACTION:** Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.**SUMMARY:** The NRC invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* "Reporting and Recordkeeping Requirements for Export and Import of Nuclear Equipment and Material," formerly, "Export and Import of Nuclear Equipment and Material."

2. *Current OMB approval number:* 3150-0036.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* Any person in the U.S. who wishes to export or import nuclear material and equipment subject to the requirements of a general or specific license.

5. *The number of annual respondents:* 103.

6. *The number of hours needed annually to complete the requirement or request:* 524.

7. *Abstract:* Persons in the U.S. who export or import nuclear material or equipment under a general or specific authorization must comply with certain reporting and recordkeeping requirements under 10 CFR part 110.

Submit, by June 8, 2009, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge

at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC-2009-0144. You may submit your comments by any of the following methods. Electronic comments: Go to <http://www.regulations.gov> and search for Docket No. NRC-2009-0144. Mail comments to NRC Clearance Officer, Gregory Trussell (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Gregory Trussell (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by telephone at 301-415-6874, or by e-mail to INFOCOLLECTS.Resource@NRC.GOV.

Dated at Rockville, Maryland, this 30th day of March 2009.

For the Nuclear Regulatory Commission.

Gregory Trussell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E9-7947 Filed 4-7-09; 8:45 am]

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NUCLEAR REGULATORY COMMISSION**[Docket No. 55-61336; License No. SOP-11801 (Terminated); IA-09-014; NRC-2009-0156]****In the Matter of Keith Davis; Order Prohibiting Involvement in NRC-Licensed Activities****I**

Keith Davis (Mr. Davis) was previously employed as a Senior Reactor Operator (SRO) at PPL Corporation's Susquehanna Steam Electric Station (SSES or the facility), located in Berwick, Pennsylvania. Mr. Davis was the holder of SRO License Number SOP-11801, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part

55. The license authorized Mr. Davis to direct the licensed activities of SSES licensed operators, and to manipulate the controls of the facility. The license was terminated on August 1, 2006.

II

In a letter dated July 2, 2007, the NRC provided to Mr. Davis the results of an investigation initiated by the NRC Office of Investigations (OI). The letter informed Mr. Davis that the NRC was considering escalated enforcement action against him for an apparent violation of his SRO license due to his failure to report an arrest as required by SSES procedures. The NRC offered Mr. Davis a choice to attend a Predecisional Enforcement Conference or to request Alternate Dispute Resolution (ADR) to resolve any disagreement over: (1) whether a violation occurred; and (2) The appropriate enforcement action. At his request, an ADR mediation session was held between Mr. Davis and the NRC on September 27, 2007, and a settlement agreement was reached regarding his role in this matter. Mr. Davis confirmed his agreement, in principle, on November 16, 2007, when he signed the Consent and Hearing Waiver form, consenting to the issuance of a Notice of Violation and Confirmatory Order containing commitments agreed to in the settlement.

On November 26, 2007, the NRC issued a Notice of Violation (Notice) to Mr. Davis for his failure to report the arrest. The Notice characterized the violation at Severity Level III. The NRC also issued the Confirmatory Order confirming the commitments made as part of the settlement agreement. The Confirmatory Order required Mr. Davis to complete the commitment actions within three months of the date of the Confirmatory Order, and then inform the NRC within one month of completion.

The actions included:

- a. Writing an operating experience report addressing lessons learned from the violation;

- b. Providing the report to the NRC for review and then submitting it to a minimum of three national organizations for possible publication;

- c. Providing a written response to the NRC explaining why the NRC can have confidence that Mr. Davis will follow licensee procedures and meet NRC regulations, should he work in the nuclear industry in the future; and

- d. Preparing a licensed and non-licensed operator training plan regarding procedure compliance and the lessons learned from this issue, and

providing the plan to SSES for its potential use.

In accordance with the Confirmatory Order, Mr. Davis was required to notify the NRC, in writing, of completion of these activities by March 27, 2008.

The requirement to respond to an NRC Order is outlined in 10 CFR 2.202(b), which states, in part: A licensee or other person, to whom the Commission has issued an order under this section, must respond to the order by filing a written answer under oath or affirmation. Mr. Davis failed to respond to the Confirmatory Order.

After the NRC made several unsuccessful attempts to contact Mr. Davis, the NRC OI located and spoke with him on October 17, 2008. At that time, Mr. Davis informed OI that he did not agree with the ADR settlement to which he had consented, and that it was for this reason that he did not accept and/or ignored the NRC's correspondence attempts. On October 17, 2008, Mr. Davis also contacted the RI senior enforcement specialist by telephone, and explained that he was not in agreement with the conclusions of the ADR, and that he chose to not complete the Confirmatory Order actions or notify the NRC of his disagreement. The senior enforcement specialist instructed Mr. Davis to send a letter to the RI Regional Administrator explaining his position and reasons for not complying with the Confirmatory Order. As of the date of this Order, Mr. Davis has neither provided this letter nor otherwise responded to the November 26, 2007 Confirmatory Order.

III

Based on the above, the NRC has concluded that Keith Davis violated 10 CFR 2.202(b), by failing to respond to an NRC Confirmatory Order. This conclusion is based on: (1) Mr. Davis's statements to the RI OI that he no longer agreed with the ADR settlement and that he knowingly did not accept and/or ignored NRC correspondence requesting his response to the Confirmatory Order; (2) Mr. Davis's failure to contact the NRC regarding his disagreement with the ADR settlement; and (3) Mr. Davis's continued failure to respond to the Confirmatory Order.

As a result, I no longer have the necessary assurance that Mr. Davis, should he engage in NRC-licensed activities under any other NRC license, would perform NRC-licensed activities safely and in accordance with NRC requirements, and that the health and safety of the public will be protected if Mr. Davis were permitted at this time to be involved in NRC-licensed activities.

Therefore, the public health, safety, and interest require that Mr. Davis be prohibited from any involvement in NRC-licensed activities for a period of three years from the date of this Order, and that Mr. Davis 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 103, 161b, 161i, 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. Keith Davis is prohibited for three years from the date of this Order 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, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

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

3. Keith Davis shall, within 20 days following 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, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Davis of good cause.

V

In accordance with 10 CFR 2.202, Mr. Davis must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its issuance. In addition, Mr. Davis and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its issuance. 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.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 FR 49,139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (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 NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. 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 filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE 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 EIE 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 document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737. Participants who believe that they have good cause for not submitting documents electronically must file a motion, 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.

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, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a 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. 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 works.

If a person other than Mr. Davis 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 Mr. Davis 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 of this Order 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 this 1st day of April 2009.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Director, Office of Enforcement.

[FR Doc. E9-7946 Filed 4-7-09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, April 9, 2009 at 2 p.m.

Commissioners, Counsel to the Commission, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Walter, as duty officer, voted to consider the items listed for the closed meeting in closed session and determined that no earlier notice thereof was possible.

The subject matter of the closed meeting scheduled for Thursday, April 9, 2009 will be:

Institution and settlement of an injunctive action

Institution and settlement of administrative proceedings of an enforcement nature; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: April 3, 2009.

Elizabeth M. Murphy,
Secretary.

[FR Doc. E9-7929 Filed 4-7-09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59682; File No. SR-BX-2009-018]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change To Modify Fees for Members Using the NASDAQ OMX BX Equities System

April 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 25, 2009, NASDAQ OMX BX, Inc. ("BX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

BX proposes to modify pricing for BX members using the NASDAQ OMX BX Equities System. BX will implement this rule change on April 1, 2009. The text of the proposed rule change is available at <http://nasdaqomx.cchwallstreet.com/>, at BX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, BX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.