

February 25, 2004

IA-03-046

Julio Venegas
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION
(NRC Inspection Report No. 45-25475-01/2003-001 and NRC Office of
Investigations Report No. 2-2003-054)

Dear Mr. Venegas:

This letter refers to an investigation conducted by the NRC Office of Investigations (OI) at the Precision Testing and Inspection (PTI) facility in Chantilly, Virginia, to determine, in part, whether you knowingly provided inaccurate information to the NRC (with respect to your identity) during an NRC inspection. As noted in the factual summary of the OI investigation, which was sent to you on January 6, 2004, the NRC determined that you deliberately provided inaccurate information to the NRC during an inspection on August 25, 2003, when you initially denied that you were the Radiation Safety Officer (RSO) for PTI. The January 6, 2004 letter stated that the NRC was considering the finding from the OI investigation as an apparent violation of 10 CFR 30.10.

As noted in that factual summary, the apparent violation occurred due to your initial deliberate denial to the NRC inspectors that you were the RSO of PTI. This finding was discussed during a predecisional enforcement conference held with you on January 20, 2004. The discussion included the violation, its causes, and your corrective action. At the conference, you stated that you knew you should not provide inaccurate information to the NRC, but you were having a bad day and you hoped that the inspectors would leave and return on another day. You said that you realized that you could not continue to deny that you were the RSO, so you told the NRC inspectors that you were the RSO about 10 to 15 minutes after the initial denial. You also stated that you normally cooperate fully during NRC inspections and that you were embarrassed by your behavior on that specific day.

Based on information obtained during the inspection, investigation, and the conference, the NRC concludes that your actions were deliberate. As such, you violated 10 CFR 30.10 by engaging in deliberate misconduct that caused the licensee, PTI, to be in violation of 10 CFR 30.9. Given the deliberate nature of your actions, and since you were the RSO for PTI, this violation is categorized in accordance with Supplement VII of the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, as a Severity Level III violation.

In determining the appropriate sanction to be issued in this case, the NRC considered issuing an Order prohibiting your involvement in NRC-licensed activities because of your actions. However, after consultation with the Director, Office of Enforcement, and after considering the

circumstances of this case, including the fact that you corrected your inaccurate statement within 15 minutes, I have decided to issue you the enclosed Notice of Violation. You should be aware that any similar deliberate violations in the future involving NRC licensed activities at a licensed facility, whether identified by your employer, or by the NRC during an inspection or investigation, could result in the NRC taking significant enforcement action against you and potential criminal prosecution.

The NRC has concluded that information regarding the reason for the violation, and the corrective actions taken to correct the violation and prevent recurrence, were already described adequately during the conference on January 20, 2004. These actions included assurances to that you will not provide inaccurate information to the NRC in the future. Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. If you have any questions regarding this letter, please contact Mr. Thomas Decker of my staff at (404) 562-4721.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures, and any response will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

*/RA/ James T. Wiggins **Acting For/***

Hubert J. Miller
Regional Administrator

Enclosures:

1. Notice of Violation
2. Letter to PTI with Notice of Violation and Proposed Imposition of Civil Penalty

cc w/encl.:
Commonwealth of Virginia
District of Columbia

Distribution w/encl.:

ADAMS (PARS)
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 C. Paperiello, DEDMRS
 F. Congel, OE
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 D. Broaddus, NMSS
 D. Dambly, OGC
 L. Chandler, OGC
 Enforcement Coordinators
 RII, RIII, RIV
 B. Beecher, OPA
 H. Bell, OIG
 P. Lohaus, OSTP
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 G. Pangburn, RI
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 P. Henderson, RI
 K. Farrar, RI
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 N. Sheehan, PAO-RI
 D. Holody, RI
 J. Nick, RI
 G. Matakas, RI
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*HQ concurrence provided by S. Merchant per telcon with J. Nick

Enclosure 1

NOTICE OF VIOLATION

Julio Venegas

IA-03-046

During an NRC investigation conducted by the NRC Office of Investigation between August 22, 2003, and November 4, 2003, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 30.10 (a)(1) states, in part, that any licensee or employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or any term, condition, or limitation of any license issued by the Commission.

10 CFR 30.9(a) requires, in part, that information provided to the Commission by a licensee shall be complete and accurate in all material respects.

Contrary to the above, during an NRC inspection on August 25, 2003, you engaged in deliberate misconduct that caused Precision Testing and Inspection (PTI) to be in violation of NRC regulations, in that information you deliberately provided to the Commission was not complete and accurate in all material respects. Specifically, when questioned by the NRC inspectors, you initially told the inspectors that you were not the Radiation Safety Officer for PTI, when in fact, you were the RSO. This information was material because it delayed an NRC inspection of the facility.

This is a Severity Level III violation (Supplement VII).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved, was already adequately addressed in the predecisional enforcement conference held on January 20, 2004, as documented in the letter transmitting this Notice. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description in the referenced letter does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, you should clearly mark your response as a "Reply to a Notice of Violation, IA 03-046" and send it to the U.S. Nuclear Regulatory Commission, ATTN.: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that

should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information).

Dated this 25th day of February 2004.