



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

May 23, 2008

IA-08-002

William M. Johnston
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

SUBJECT: NOTICE OF VIOLATION
NRC INVESTIGATION REPORT NO. 4-2007-031

Dear Mr. Johnston:

This refers to the investigation completed on November 26, 2007, by the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) involving an event which occurred during radiographic operations on board a lay barge on April 20, 2006, and the resulting 30-day report dated May 18, 2006. The purpose of the investigation was, to determine, in part, whether you, the Radiation Safety Officer (RSO) for Global X-Ray and Testing Corporation, deliberately failed to provide complete and accurate information to the NRC regarding the circumstances surrounding the event. In a letter dated March 25, 2008, the NRC provided you a copy of a factual summary of the OI report.

On April 28, 2008, a predecisional enforcement conference was conducted in the Region IV office with you to discuss the apparent violation, its significance, its root cause, and your corrective actions. During the predecisional enforcement conference, you stated that you thought you had included the radiographer's report as an enclosure to the 30-day report you provided to the NRC on May 18, 2006. The radiographer's report described the event and the fact that his pocket dosimeter had gone off-scale. We did not find your explanation credible because (1) the radiographer's report was not listed as an enclosure to the May 18, 2006, report; (2) we have no record that the report was provided to the NRC; and (3) you discussed pocket dosimeter readings in previous 30-day event reports submitted to the NRC. Lastly, you did not reconcile the discrepancy between the 25 millirem exposure reported in the 30-day report you submitted and the off-scale pocket dosimeter reading in the radiographer's report that you claimed to have provided.

On the basis of the information developed during the investigation and the information that you provided during the conference, the NRC has determined that a deliberate violation of NRC requirements occurred. Your deliberate actions placed you in violation of 10 CFR 30.10, "Deliberate Misconduct." The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1). In a report submitted to the NRC on May 18, 2006, you, as the RSO for Global X-Ray and Testing Corporation, provided information to the NRC that you knew to be incomplete or inaccurate in a material respect. Specifically, you failed to include complete information in the May 18, 2006, report regarding the radiation exposure to the radiographer involved in the event as required by 10 CFR 30.50(c)(2)(vi). The information submitted stated that the radiographer received 25 millirem (based on a report from Landauer), but failed to disclose the fact that the radiographer reported that his pocket dosimeter had gone off-scale, indicating that the individual actually received greater than 200 millirem during the event.

Also, your report was incomplete because it did not reconcile or explain the discrepancy between the 25 millirem reported dose and the off-scale dosimeter reading. This information was material because it was required to be reported to the NRC and it influenced the NRC's decision on when to conduct an inspection of the event described in the May 18, 2006, report. Given the significance of the underlying issue and the deliberate nature of your actions, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In our letter dated March 25, 2008, in which we provided you with a Factual Summary related to our concern that you provided us with inaccurate or incomplete information, the apparent violation identified other examples of issues that were incomplete or inaccurate. These included providing incomplete information regarding possible exposures to members of the public during the event in the 30-day report; and providing inaccurate information regarding the location of the source associated with the April 20, 2006, event, during a telephone conversation with NRC staff on June 12, 2006. We did not conclude that those examples involved deliberate misconduct.

You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or criminal action. You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response, if you choose to provide one, 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/pdr.html or 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. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov/reading-rm/doc-collections/enforcement/actions/. In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at www.nrc.gov/reading-rm/foia/privacy-systems.html.

Please feel free to contact Michael Vasquez at 817-860-8121 or Christi Maier at 817-860-8217 if you have any questions.

Sincerely,

/RA ATHowell for/

Elmo E. Collins
Regional Administrator

Enclosure: Notice of Violation to
William M. Johnston

NOTICE OF VIOLATION

William M. Johnston
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

IA-08-002

During an NRC investigation completed on November 26, 2007 a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.10(a)(2) states, in part, that an employee of a licensee may not deliberately submit to the NRC information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Contrary to the above, on May 18, 2006, Mr. William M. Johnston, an employee of a licensee, deliberately submitted information to the NRC that he knew to be incomplete or inaccurate in some respect material to the NRC. Specifically, in a report submitted to the NRC on May 18, 2006, Mr. Johnston, as the radiation safety officer (RSO) for Global X-Ray and Testing Corporation, described an event that took place during radiographic operations on board a lay-barge on April 20, 2006. The information he provided failed to include complete information regarding the radiation exposure to the radiographer involved in the event as required by 10 CFR 30.50(c)(2)(vi). The report stated that the radiographer received 25 millirem (based on a report from Landauer), but failed to disclose the fact that the radiographer reported that his pocket dosimeter had gone off-scale, indicating that the individual actually received greater than 200 millirem during the event. Mr. Johnston's report was also incomplete because it did not reconcile or explain this discrepancy between the reported 25 millirem dose and the off-scale dosimeter reading. This information was material because it was required to be reported to the NRC and it influenced the NRC's decision on when to conduct an inspection of the event described in the May 18, 2006, report.

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

Pursuant to the provisions of 10 CFR 2.201, Mr. Johnston is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region IV, 612 E. Lamar Blvd, Suite 400, Arlington, TX 76011, and marked "Open by Addressee Only", within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation; IA-08-002" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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.

Enclosure 1

Because your response 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/pdr.html or www.nrc.gov/reading-rm/adams.html, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. 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 2.390(b) to support a request for withholding confidential commercial or financial information). This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at www.nrc.gov/reading-rm/foia/privacy-systems.html.

Dated this 23rd day of May, 2008

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R4ALLEGATION.resource@nrc.gov (if alleg related)		
RIV OI FOD (for OI cases)		
RIV Materials Docket File (5th Floor)		

SUNSI Review Completed: ADAMS: Yes initials: MCM

Publicly Available Non-Sensitive

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