

August 10, 2012

IA-12-029

Mr. Joseph Quintanilla
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES

Dear Mr. Quintanilla:

The enclosed Order is being issued because the Nuclear Regulatory Commission (NRC) has determined that you, as a radiographer formerly employed by Quality Testing and Inspection, Inc. (QIT), engaged in deliberate misconduct while conducting radiography activities. Specifically, while employed at QIT and working at a temporary jobsite near Rock Springs, Wyoming, you deliberately (1) failed to maintain direct control and constant surveillance of licensed materials when not secured as required by 10 CFR 20.1802, and (2) failed to wear the required dosimetry while conducting radiographic operations in compliance with the requirements of 10 CFR 34.47(a). Since your actions involved deliberate misconduct, you violated NRC's deliberate misconduct rule, 10 CFR 30.10, which prohibits employees from engaging in deliberate misconduct that causes a licensee to be in violation of NRC requirements.

In our letter dated June 5, 2012 (ML12160A021), the NRC provided you with a factual summary of the results of an NRC investigation conducted by the NRC's Office of Investigations, Region IV. Our letter also informed you that two apparent 10 CFR 30.10 violations were being considered for escalated enforcement action in accordance with the NRC Enforcement Policy: (1) deliberate misconduct that placed QIT in violation of NRC requirements (10 CFR 30.10(a)(1)); and (2) deliberately submitting inaccurate information to QIT (10 CFR 30.10(a)(2)). Based on additional information provided at the PEC, the NRC has decided not to pursue enforcement regarding 10 CFR 30.10(a)(2).

Because of your action described above, your position as a radiographer, and the fact that the 10 CFR 20.1802 violation involved a quantity of radioactive material of concern, the NRC lacks the requisite assurance that you are willing to comply with NRC requirements and has determined that you should be prohibited from engaging in licensed activities. Consequently, for a period of one year from the effective date of the enclosed Order (as defined in Section V of the Order) you are prohibited from engaging in NRC licensed activities that are conducted pursuant to a specific or general license issued by the NRC. This means that during the one year prohibition period you cannot perform, supervise, assist or otherwise engage in (1) industrial radiographic operations in NRC jurisdiction for an Agreement State licensee that are conducted under a general license pursuant to 10 CFR 150.20; (2) industrial radiographic operations for an NRC licensee; or (3) any other licensed activity in NRC jurisdiction.

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. Failure to comply with the provisions of this Order may result in further civil enforcement action, including a civil monetary penalty.

In accordance with 10 CFR 2.202, you are required to provide an answer to this Order within 20 days of the date of the Order. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Order. The NRC will use your response, in part, to evaluate the appropriateness of the enforcement action as well as whether further enforcement action is necessary to ensure compliance with the regulatory requirements. 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 <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Instead of providing a response to the Order, you may request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve the issue. This request must also be made within 20 days of the issuance date of the Order. ADR 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 Revision 1) 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 NRC's program as an intake neutral. Please contact the Institute on Conflict Resolution at (877) 733-9415 within 20 days of the date of this letter if you are interested in pursuing resolution of this issue through the ADR program.

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 Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Because this letter references and encloses information related to escalated enforcement action against an individual, this letter and its enclosures will be maintained by the Office of Enforcement in a 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's Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>

J. Quintanilla

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Questions concerning this Order should be addressed to Michael Vasquez, Chief, Nuclear Materials Safety Branch A, Region IV office, at 817-200-1130.

Sincerely,

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

Enclosures:

1. Order Prohibiting Involvement in
NRC-Licensed Activities
2. Confirmatory Order issued to Quality
Inspection and Testing, Inc.
3. NUREG/BR-0317, Rev. 1, Alternative
Dispute Resolution

Questions concerning this Order should be addressed to Michael Vasquez, Chief, Nuclear Materials Safety Branch A, Region IV office, at 817-200-1130.

Sincerely,

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

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***Concurred via email**

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OFFICE	RIV	RIV	OGC	FSME	BC:OE
NAME	AVegel	AHowell /RA/ AVegel for	BKlukan *RA/ CSafford for/	MBurgess *RA/ CSafford for/ Confirmed 8/7	NHilton
DATE	7/30/12	07/30/12	8/8/12	8/1/12	8/9/12
OFFICE	RA: RIV	D:OE			
NAME	ECollins	RZimmerman			
DATE	8/9/12	8/10/12			

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Letter to J. Quintanilla from R. Zimmerman dated August 10, 2012

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cc with Enclosure 1

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