

NUCLEAR REGULATORY COMMISSION

[NRC-2012-0194]

In the Matter of

)

IA-12-029

Mr. Joseph Quintanilla

)

)

)

**ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES**

I

Mr. Joseph Quintanilla is a radiographer who was formerly employed by Quality Inspection and Testing (QIT or Licensee), a radiography company whose corporate offices are located in New Iberia, Louisiana. QIT holds an Agreement State license issued by the State of Louisiana (L-11238-L01) and was operating under a general license issued pursuant to 10 CFR 150.20 at a temporary jobsite near Rock Springs, Wyoming, on October 27, 2010.

II

On October 27, 2010, the U.S. Nuclear Regulatory Commission (NRC) conducted a safety and security inspection of the use of byproduct material for industrial radiographic operations conducted under QIT's general license issued pursuant to 10 CFR 150.20. When approaching QIT's radiography truck, the inspector observed the radiography camera outside the truck (unsecured) with both the radiographer (Mr. Quintanilla) and the assistant radiographer inside the truck; thus neither man was maintaining surveillance over the camera and the camera was not secured. When Mr. Quintanilla and the assistant radiographer emerged from the darkroom on the truck, about 2 minutes later, neither individual was wearing any personnel monitoring equipment (film badge, pocket dosimeter or alarm ratemeter). Mr. Quintanilla stated

he forgot to wear his personnel monitoring equipment while conducting radiography but that his dosimetry was in the truck. The inspector observed Mr. Quintanilla retrieve all three of his required personnel monitoring devices. During a conference call with QIT managers in January 2011, QIT informed the NRC that Mr. Quintanilla told QIT that the camera was left unattended for only a few seconds after the wind blew the door to the darkroom closed (both Mr. Quintanilla and the assistant radiographer were inside the darkroom). This conflicted with the inspector's observations that both men were in the darkroom for about 2 minutes before emerging. As a result of this inspection, the NRC's Office of Investigation (OI), Region IV initiated an investigation (OI Report 04-2011-031) to determine the facts and circumstances surrounding the inspection and whether Mr. Quintanilla provided inaccurate information to QIT.

In his OI interview, Mr. Quintanilla stated that the camera was unattended for about 5 minutes, and Mr. Quintanilla denied providing information to QIT that the camera was only unattended for a few seconds because the wind blew the door shut. Mr. Quintanilla stated he asked the assistant radiographer to leave the darkroom and to watch the radiography camera, but the assistant did not go and Mr. Quintanilla did not ensure that the assistant went. Mr. Quintanilla also admitted to knowingly conducting radiographic operations without wearing his film badge, but he claimed that he was wearing his pocket ion chamber and alarming ratemeter. By letter dated June 5, 2012 [Reference redacted, not publicly available] the NRC informed Mr. Quintanilla that the NRC was considering escalated enforcement action for apparent violations of the NRC's deliberate misconduct rule, 10 CFR 30.10. The June 5, 2012, letter identified apparent violations of the deliberate misconduct rule, specifically apparent violations of 10 CFR 30.10(a)(1) were identified. The 10 CFR 30.10(a)(1) apparent violation was related to Mr. Quintanilla's actions which resulted in QIT being in violation of 10 CFR 20.1802 associated with leaving the radiography camera, unattended and unsecured, and 10 CFR 34.47(a) for failing to wear the required dosimetry when conducting radiographic

operations. The NRC's June 5th letter provided Mr. Quintanilla the opportunity to request a predecisional enforcement conference (PEC), or request alternative dispute resolution (ADR) with the NRC in an attempt to resolve issues associated with these apparent violations. During a June 13, 2012 conference call between Mr. Quintanilla and NRC staff, Mr. Quintanilla indicated that he would like to participate in a predecisional enforcement conference. A PEC was conducted on June 22, 2012.

During the PEC, Mr. Quintanilla indicated that he was aware the camera was outside of the dark room and did not contest that apparent violation. Mr. Quintanilla maintained his position that he was wearing his pocket dosimeter and his alarm ratemeter while conducting radiography, but he stated he left his film badge in Utah and was not wearing it during radiography. This conflicted with the inspector's observation that Mr. Quintanilla retrieved his film badge, pocket dosimeter, and alarm ratemeter from the truck when the inspector requested to see his dosimetry. Mr. Quintanilla maintained that he never talked with QIT managers about the results of the inspection.

Based on the results of the inspection and the OI investigation, and information provided during the predecisional enforcement conference, the NRC has concluded that Mr. Quintanilla engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1) in two instances. First, he caused the licensee to be in violation of 10 CFR 20.1802 related to leaving the camera, containing a quantity of concern, unattended and unsecured. A second example of his deliberate misconduct involved his failure to wear all the required dosimetry while conducting radiography (specifically, at the very least he failed to wear his film badge).

III

Mr. Joseph Quintanilla, a former employee of Quality Inspection and Testing (QIT), has engaged in deliberate misconduct (in violation of 10 CFR 30.10) that has caused the Licensee to be in violation of 10 CFR 20.1802 and 10 CFR 34.47(a). QIT was required to follow those

requirements by the general license issued to it pursuant to 10 CFR 150.20. The NRC must be able to rely on the Licensee and its employees to act with integrity and comply with NRC requirements. Mr. Quintanilla's action in causing QIT to violate 10 CFR 20.1802, and 10 CFR 34.47(a) raised serious doubt as to whether he can be relied upon to comply with NRC requirements.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Joseph Quintanilla were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety, and interest require that Mr. Joseph Quintanilla be prohibited from any involvement in NRC-licensed activities for a period one year from the effective date of this Order. Additionally, Mr. Joseph Quintanilla is required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the prohibition period.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR 30.10

IT IS HEREBY ORDERED THAT:

1. Mr. Joseph Quintanilla is prohibited for one year, from the effective 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 Mr. Joseph Quintanilla is currently involved with another licensee in NRC-licensed activities, he must cease those activities no later than the effective date of this Order,

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. For a period of one year after the one year period of prohibition has expired, Mr. Joseph Quintanilla shall, within 20 days of 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. Joseph Quintanilla of good cause.

V

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

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the

NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, web-based submission form. In order to serve documents through the Electronic Information Exchange

System, users will be required to install a web browser plug-in from the NRC's Web site. Further information on the web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing 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 E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's 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 documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, 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. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at <http://ehd1.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission, or the 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, unless an NRC regulation or other law requires submission of such information. 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 submission.

If a person other than Mr. Quintanilla 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) and (f).

If a hearing is requested by a licensee 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 this Order is published in the *Federal Register* 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 at Rockville, Maryland, this 10th day of August, 2012.

For the Nuclear Regulatory Commission.

/RA/

Roy P. Zimmerman, Director,
Office of Enforcement.