

April 30, 2013

Mr. Kevin Doyle, President
Pentas Controls, LLC
20650 N 29th Place
Suite 106
Phoenix, AZ 85050

Dear Mr. Doyle:

We have reviewed the information you included in your various email submissions. As noted in our April 4, 2013, email response, please be aware that Pentas Controls, LLC (hereinafter referred to as Pentas Controls) is subject to Nuclear Regulatory Commission (NRC) inspections, which will determine whether Pentas Controls is meeting all applicable NRC regulations and requirements as well as the Terms of Probation contained in your sentencing document.

NRC requirements that apply to Pentas Controls include, for example, that Pentas Controls shall comply with NRC regulations 10 CFR §§ 50.5, Deliberate Misconduct; 50.7, Employee Protection; 50.9, Completeness and Accuracy of Information; 10 CFR Part 21, Reporting of Defects and Noncompliance; and Appendix B of 10 CFR Part 50, Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants. The Terms of Probation are additional requirements that Pentas Controls must complete as it engages in activities as a vendor of nuclear services and repairs.

In light of your submissions to the NRC in response to the Terms of Probation contained in your sentencing document, the NRC has the following responses:

I. Communication:

A. Requirement:

1(a): Within 30 days of sentencing, defendant shall provide a letter or memo to his employees at Pentas Controls, LLC (hereinafter Pentas Controls) involved in any nuclear safety-related activities including, but not limited to, the repair, refurbishment, or replacement of nuclear safety-related items, advising them that he violated NRC requirements and the consequences of his violation.

B. Submission:

You sent an initial letter to Pentas Controls employees within the appropriate time in response to Requirement 1(a) above; however, the first letter failed to capture the basis for this communication as articulated in the Terms of Probation. You subsequently sent a revised letter to your employees addressing most of the issues the NRC raised but concluded the letter with a statement that Pentas Controls employees could bring safety-related concerns to you in addition to the other points of contact. In a subsequent email, the NRC advised you that including yourself as a point of contact was not appropriate.

On March 26, 2013, you sent the NRC an email with an attachment containing a third letter you provided to Pentas Controls employees that removes the offending language, i.e., this revision excludes your name as a point of contact.

C. NRC Response:

Your email states that you provided the revised letter attached to your March 26, 2013 email to Pentas Controls employees involved in any nuclear safety-related activities including, but not limited to, the repair, refurbishment, or replacement of nuclear safety-related items. You removed your name as a point of contact for Pentas Controls employees to bring safety-related concerns and appropriately addressed the other information included in Requirement 1(a). The NRC will review Pentas Controls documentation during inspection to verify this.

II. Safety-Related Training:

A. Requirement:

2 (a): Pentas Controls will create a written policy, develop training, and train employees involved in any nuclear safety-related activities including but not limited to the repair, refurbishment, or replacement of nuclear safety-related items, addressing compliance with NRC regulations within 60 days of sentencing.

B. Submission:

You have hired a Quality Assurance (QA) Manager, Mr. Robert Prigmore.

You submitted a document entitled "Pentas Controls, 10 CFR Part 21 Notifications."

You also submitted QA Procedures for Qualification of Inspection and Testing Personnel and Qualification of Solder Personnel.

C. NRC Response:

Mr. Prigmore's resume indicates that he is qualified to create the written policy, develop training and train employees in areas addressing compliance with NRC regulations specifically focusing on QA processes and procedures that are contained in 10 CFR Part 21 and Appendix B of 10 CFR Part 50.

The NRC is not aware of any written procedures indicating that Pentas Controls has a written policy addressing the requirements in Appendix B of 10 CFR Part 50.

The QA Manager is responsible for evaluating qualification procedures for adequacy. As part of NRC inspection, we will review these procedures and verify their implementation, including training that the QA Manager provides, per the Terms of Probation and Appendix B requirements. However, the NRC does not intend to review Pentas Controls qualification procedures to provide guidance on how to meet Appendix B requirements.

III. Employee Protection Training:

A. Requirement:

2(b): Within 90 days of sentencing, Pentas Controls shall hire an outside consultant, approved by the NRC, with expertise in NRC employee protection regulations to develop and conduct training modules, and provide recommendations for improvement. The training will include:

1. Information regarding the important role an open and collaborative work environment plays in a positive safety culture as described in the NRC's Safety Culture Policy Statement, which applies to vendors and suppliers of nuclear safety-related items;
2. The importance of providing complete and accurate information to the NRC, including a focus on the actions that led to the subject terms of probation and the lesson-learned from the precipitating event to include a review of the consequences of and the potential actions that NRC may take against an individual for willful violations;
3. A focus on 10 CFR 50.5, "Deliberate Misconduct," 50.7, "Employee Protection," and 50.9. "Completeness and Accuracy of Information" to include potential enforcement outcomes when these requirements are violated either by an organization such as Pentas Controls or an individual.
4. This requirement then lists several items that must be included in this training, including that training records shall be retained consistent with applicable Pentas Controls record retention policies and made available to the NRC upon request.

B. Submission:

To satisfy this requirement, you initially submitted a list of employees that had attended training that was developed and completed by the Pentas Controls QA Manager, Mr. Prigmore. Because Mr. Prigmore is the QA Manager for Pentas Controls, he does not meet the requirement that initial training be developed and provided by an outside consultant. The NRC called this to your attention. In response, in emails dated April 8 and April 9, 2013, you submitted the resumes of three outside consultants, i.e., Mr. David A. Taggart, Mr. Peter J. Rail, and Mr. Russell Wise, to develop and conduct the training specified in 2(b).

C. NRC Response:

The NRC has reviewed the resumes of the consultants and all three consultants appear qualified to develop and provide this training; however, Mr. Taggart is associated with the NDT Consulting Group, LLC, which is the same consulting company with which Mr. Prigmore has been associated. This association does not provide the independence envisioned by this requirement. While an actual conflict of interest may not exist; the appearance of a conflict of interest does exist.

As with the training discussed in item 2(a) above, as part of its inspection, the NRC will review the training records and verify its implementation per the Terms of Probation

IV. Organizational Changes:

A. Requirements:

3(a): For the first 365 days of probation, defendant is banned from any decision-making authority under the purview of the NRC regulatory authority regarding any nuclear safety-related activities included but not limited to repair, refurbishment or replacement of nuclear safety-related items.

3(b): Defendant shall be removed indefinitely as the individual responsible for QA oversight of activities regarding the repair, refurbishment or replacement of nuclear safety-related items. The NRC, in consultation with the U.S. Probation Office, will have the authority to reduce the restrictive nature of this term as appropriate.

3(d): Pentas Controls will hire a Quality Assurance Manager to provide oversight for the repairs, refurbishment or replacement of all nuclear safety related items. Defendant will not have any authority over the quality assurance activities in order to ensure sufficient independence from cost and schedule when opposed to safety considerations.

B. Submission:

You submitted a "Statement of Authority and Policy" which notes, in pertinent part, that the Quality Assurance Program is delegated to the Quality Assurance Director; however, this statement includes language that allows you to act in the place of the QA Manager in his/her absence.

C. NRC Response:

The Statement of Authority and Policy does not provide the independence specified by the requirements in paragraph 3. Specifically, the last paragraph of this delegation of authority indicates that, "In the absence of the Quality Assurance Director, the president may act in his stead. In the absence of the President, the Quality Assurance Director may act in his stead."

V. Additional Comments:

You asked whether Pentas Controls can use Skype to provide the initial employee protection training. While the method of training is not expressly specified in the Terms of Probation, as noted above, the NRC will review the actions taken to satisfy NRC regulations and the requirements specified in the Terms of Probation to verify that they have been appropriately implemented. The NRC will also review the effectiveness of this training during NRC inspections.

K. Doyle

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While the NRC has provided Ms. Schwartz as a point of contact in the event that you have questions pertaining to the implementation of the Terms of Probation, you are solely responsible for ensuring the implementation of these terms. As noted above in this letter, Pentas Controls is subject to NRC inspections, which will determine whether Pentas Controls is meeting all applicable NRC regulations and requirements as well as the Terms of Probation contained in your sentencing document.

Sincerely,

/RA/

Dave Solorio, Chief
Concerns Resolution Branch
Office of Enforcement
U.S. Nuclear Regulatory Commission

K. Doyle

- 5 -

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Dave Solorio, Chief
Concerns Resolution Branch
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