



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

June 1, 2017

IA-16-050

Mr. Kevin Lashley
[HOME ADDRESS DELETED
UNDER 10CFR2.390(a)]

SUBJECT: NOTICE OF VIOLATION – NRC INVESTIGATION REPORT NO. 3-2016-004

Dear Mr. Lashley:

This letter refers to an investigation completed on June 1, 2016, by the U.S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) regarding JANX Integrity Group (JANX) personnel's failure to follow NRC regulations while performing radiographic operations. The purpose of the investigation was to determine whether JANX employees deliberately failed to: (1) have at least one other qualified individual accompany the radiographer during radiographic operations as required by Title 10 of the *Code of Federal Regulations* (CFR) section 34.41(a); (2) survey the radiographic exposure device and the guide tube with a survey instrument after each exposure when approaching the device as required by 10 CFR 34.49(b); and (3) conduct operability checks of the radiography exposure device prior to use of the equipment as required by 10 CFR 34.31(a). Enclosure (2) is the enforcement action issued to JANX.

Our letter, dated January 17, 2017, transmitted to you a factual summary of the investigation report and provided you the opportunity to address the apparent violations identified in the summary by: (1) attending a predecisional enforcement conference (PEC), (2) providing a written response, or (3) attending an alternative dispute resolution (ADR) session before we made our final enforcement decision. However, as of the date of this letter you have not responded. Therefore, the NRC is proceeding with its enforcement action based on the results of the OI investigation.

Based on the information developed during the investigation, the NRC has determined that deliberate violations of NRC requirements occurred. The violations involved your actions as a qualified assistant radiographer where you deliberately failed to: (1) survey the radiographic exposure device and the guide tube with a survey instrument after each exposure when approaching the device is a violation of 10 CFR 34.49(b); and (2) conduct operability checks of the radiography exposure device prior to use is a violation of 10 CFR 34.31(a). Your deliberate actions with regards to the violations described above caused you to be in violation of 10 CFR 30.10, "Deliberate Misconduct." Given the significance of the underlying issue and the deliberate nature of your actions, these violations together have been categorized in accordance with the NRC Enforcement Policy as Severity Level III problem. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. In determining the appropriate sanction to be issued in this case, the NRC considered issuing an Order prohibiting your involvement in NRC-licensed activities as a result of your actions. However, after consultation with the Director, Office of Enforcement, and after considering the circumstances of this case, including: (1) you

were not in a supervisory position at the time of the deliberate actions; (2) you accepted responsibility for your deliberate actions that caused the violations during your OI interview; and (3) JANX took action regarding your wrongdoing by terminating your employment, I have decided only to issue the enclosed Notice of Violation (Notice).

You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could subject you to 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. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

If you disagree with this enforcement action, you may deny the violations, as described in the Notice, or you may request ADR with the NRC in an attempt to resolve this issue. This request must be made within 30 days of the issuance date of the Notice. 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 enclosure (3) brochure (NUREG/BR-0317), which can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate NRC's program as an intake neutral. **Please contact ICR at 607-255-1124 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR. In addition, if you choose this option, also please contact Rick Skokowski at 630-810-4373 within 10 days of the date of this letter.**

In accordance with 10 CFR 2.390, a copy of this letter, enclosure (1), and your response, 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>, in 45 days unless you provide a sufficient basis to withdraw the violations within the 30 days specified above for responding to the Notice. 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/>).

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. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. 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>.

K. Lashley

- 3 -

Please feel free to contact Rick Skokowski of my staff at 630-810-4373 if you have any questions.

Sincerely,

/RA/

Cynthia D. Pederson
Regional Administrator

Enclosure:

1. Notice of Violation
2. Letter to JANX Integrity Group &
Notice of Violation
3. Brochure (NUREG/BR-0317)

RETURN RECEIPT REQUESTED

Letter to Kevin Lashley from Cynthia D. Pederson dated June 1, 2017

SUBJECT: NOTICE OF VIOLATION – NRC INVESTIGATION REPORT NO. 3-2016-004

DISTRIBUTION:

RidsOemailCenter
 Patricia Holahan
 Juan Peralta
 Nick Hilton
 Kerstun Norman
 Thomas Marenchin
 Chris Heir
 Cynthia Pederson
 Darrell Roberts
 John Giessner

Christine Lipa
 Aaron McCraw
 Richard Skokowski
 Scott Langan
 Marjorie Zerth
 Kenneth Lambert
 James Heller
 Sarah Bakhsh
 Paul Pelke

OFC	RIII-EICS	RIII-DNMS	RIII-DNMS	RIII-OE	RIII-OGC	RIII-EICS	RIII-ORA
NAME	KLambert:jc	AMcCraw	JGiessner	PHolahan1	MLemoncelli2	RSkokowski	CPederson
DATE	03/24/17	03/27/17	03/27/17	05/18/17	05/16/17	5/18/17	6/1/17

Official Record Copy

1 OE concurrence provided via e-mail from Thomas Marenchin on May 18, 2017.
 2 OGC concurrence provided via e-mail from David Cylkowski on May 16, 2017.

NOTICE OF VIOLATION

Kevin Lashley
[HOME ADDRESS DELETED
UNDER 10CFR2.390(a)]

IA-16-050

During a U.S. Nuclear Regulatory Commission (NRC) investigation completed on June 1, 2016, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. Title 10 of the *Code of Federal Regulations* (CFR) 30.10(a)(1) requires, in part, that an employee of a licensee, may not engage in deliberate misconduct that causes a licensee to be in violation of any regulation issued by the Commission.

Title 10 CFR 34.49(b) requires, in part, that the licensee conduct a survey of the radiographic exposure device and the guide tube with a calibrated and operable radiation survey instrument after each exposure when approaching the device or guide tube. The survey must determine that the sealed source has returned to its shielded position.

Contrary to the above, on September 18, 2015, Kevin Lashley engaged in deliberate misconduct that caused his employer, JANX Integrity Group, an NRC licensee, to be in violation of 10 CFR 34.49(b). Specifically, while conducting radiographic operations at a temporary job site in Samaria, Michigan, Kevin Lashley deliberately failed to conduct a survey of the radiographic exposure device and the guide tube with a calibrated and operable radiation survey instrument.

- B. Title 10 CFR 30.10(a)(1) requires, in part, that an employee of a licensee, may not engage in deliberate misconduct that causes a licensee to be in violation of any regulation issued by the Commission.

Title 10 CFR 34.31(a) requires, in part, that the licensee perform visual and operability checks on survey meters, radiographic exposure devices, transport and storage containers, associated equipment and source changers before use on each day the equipment is to be used to ensure that the equipment is in good working condition, that the sources are adequately shielded, and that required labeling is present. If equipment problems are found, the equipment must be removed from service until repaired.

Condition 19.A of NRC License No. 21-16560-01 Amendment No. 30 requires, in part, that JANX Integrity Group conduct its program in accordance with the statements, representations, and procedures contained in the application dated August 21, 2014.

Item 5.D.27 of the section "Daily Maintenance Inspection of Radiographic Equipment" of the "Operating and Emergency Procedures – Radiographers Manual" (revised March 2013) contained in the application dated August 21, 2014 requires the following for SPEC 150 radiographic exposure devices: "using light force, attempt to install the control adapter on the exposure device with the drive cable and the source assembly disconnected. If the adapter can be installed it is possible for a misconnect."

Contrary to the above, on September 18, 2015, Kevin Lashley engaged in deliberate misconduct that caused his employer, JANX Integrity Group, an NRC licensee, to be in

violation of 10 CFR 34.31(a). Specifically, while conducting radiographic operations at a temporary job site in Samaria, Michigan, Kevin Lashley deliberately failed to perform a misconnect test, required by the licensee's operating and emergency procedures as part of the visual and operability checks on the radiographic exposure devices, that must be performed before use on each day the equipment is to be used to ensure that the equipment is in good working condition.

This is a Severity Level III problem (Section 6.3).

Pursuant to the provisions of 10 CFR 2.201, Kevin Lashley is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region III, 2443 Warrenville Road, Lisle, IL 60532 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-16-050" and should include for the violations: (1) the reason for the violations, or, if contested, the basis for disputing the violations; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; 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 requiring information 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.

Your response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://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. 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). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

This letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 1st day of June 2017