



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

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PDR

February 18, 1997

IA 97-014

Mr. Michael S. Krizmanich  
[HOME ADDRESS DELETED]  
UNDER 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION  
(NRC Inspection Report No. 030-20644/93-002 and  
Investigation Report No. 1-93-069R)

Dear Mr. Krizmanich:

This refers to the inspection conducted on December 2-3, 1993, at the Power Inspection, Inc., (PI) facility located in Wexford, Pennsylvania, as well as the findings of a subsequent investigation by the NRC Office of Investigations (OI). The inspection report and OI Synopsis were sent to you with our letter dated August 9, 1996. That letter also provided you with an opportunity to attend a predecisional enforcement conference. We have yet to receive a response from you to our letter and, therefore, the NRC is proceeding with appropriate enforcement action.

Based on the information developed during the inspection and subsequent investigation by OI, the NRC has determined that you were, in part, responsible for a violation of NRC requirements that occurred, involving PI. The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding it are described in detail in the subject OI investigation report. The OI investigation report indicated that PI management directed the falsification of utilization logs. However, you did not object to performing the falsifications. A minimum of 38 radiography utilization logs were subsequently falsely created by PI employees, in violation of 10 CFR 30.9 and 10 CFR 34.27, to satisfy questions which were asked during an April 1993 NRC inspection. You were a radiographer for PI at the time the falsification violations occurred, and you acknowledged to the OI investigator that you were involved in creating one dozen false source utilization logs. As such, you caused the licensee to be in violation of NRC requirements and therefore you violated 10 CFR 30.10, as described in the Notice.

As an individual engaged in NRC-licensed activities, you were in a position that conferred upon you trust and confidence in your ability to ensure that activities were conducted in accordance with NRC requirements, and information required to be maintained by NRC requirements was complete and accurate in all material respects. Your deliberate creation of false records is of significant regulatory concern because it did not adhere to these standards, and resulted in the violation of 10 CFR 30.10. Therefore, this violation has been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600 at Severity Level III.

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Given the significance of your actions, I have decided, after consultation with the Commission, to issue to you the enclosed Notice. I also gave serious consideration as to whether an Order should be issued that would preclude you from any further involvement in NRC-licensed activities for a certain period. However, I have decided under the circumstances of this case, that this Notice of Violation is sufficient.

You should be aware that the NRC's regulations allow the issuance of orders and other civil sanctions directly to unlicensed persons who, through their deliberate misconduct, cause a licensee to be in violation of NRC requirements. Deliberate misconduct includes an intentional act or omission that the person knows constitutes a violation of a requirement, procedure or training instruction. An order may also be issued to an individual to prevent his or her engaging in licensed activities at all NRC-licensed facilities. A violation of this regulation as set forth in 10 CFR 30.10, and 50.5, "Deliberate Misconduct" (Enclosure 2), may also lead to criminal prosecution. You are on notice that any similar conduct on your part in the future could result in significant enforcement action against you.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence, as well as your reasons as to why the NRC should have confidence that you will comply with NRC requirements in the future. After reviewing your response to this Notice, including your proposed corrective actions, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be placed in the NRC Public Document Room.

If you have any questions or comments, please contact Ms. Jenny Johansen, Branch Chief, Nuclear Materials Safety Branch 3, at (610) 337-5304.

Sincerely,



Edward L. Jordan  
Deputy Executive Director for  
Regulatory Effectiveness, Program Oversight,  
Investigations and Enforcement

Enclosures:        1. Notice of Violation  
                     2. Deliberate Misconduct Rule

cc w/encl:  
P. Chambers, Power Inspection, Inc.

## NOTICE OF VIOLATION

Mr. Michael S. Krizmanich

IA 97-014

During an NRC inspection conducted on December 2-3, 1993, and subsequent investigation by the NRC Office of Investigations (OI), a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 30.10(a)(1) requires, in part, any employee of a licensee may not engage in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Commission.

10 CFR 30.10(c) states, in part, that deliberate misconduct by a person means an intentional act or omission that the person knows: (1) would cause a licensee to be in violation of any rule, regulation, condition or limitation, of any license issued by the Commission, or (2) constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor, or subcontractor.

10 CFR 30.9(a) states, in part, that information required by the Commission's regulations to be maintained by the licensee shall be complete and accurate in all material respects.

10 CFR 34.27 requires, in part, that each licensee shall maintain current utilization logs, which shall be kept available for three years from the date of the recorded event, for inspection by the Commission, at the address specified in the license, showing for each sealed source: the make and model number of the radiographic exposure device or storage container in which the sealed source is located; the identity of the radiographer to whom assigned; and the plant or site where used and the dates of use.

Contrary to the above, as of April 7, 1993, you caused Power Inspection, Inc. to be in violation of 10 CFR 30.9 and 10 CFR 34.27 in that you deliberately created false utilization logs. Specifically, the licensee's utilization logs maintained at the licensee's Wexford, Pennsylvania, office were inaccurate because they were neither "current" nor created on the date of use of the source, but in fact, were created at a later time in order to address questions asked by the NRC during a previous NRC inspection. This information was material because it had the capability to influence NRC action and, in fact, was presented to the NRC as indication that PI had completed the logs on the date of use. (01013)

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

Pursuant to the provisions of 10 CFR 2.201, you are hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, with a copy to the

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Regional Administrator, Region I, 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" 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. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. 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 other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, or proprietary, information so that it can be placed in the PDR without redaction. However, if you find it necessary to include such information, you should clearly indicate the specific information that you desire not to be placed in the PDR, and provide the legal basis to support your request for withholding the information from the public.

Dated at Rockville, Maryland  
this 17<sup>th</sup> day of February 1997

Mr. Michael S. Krizmanich

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