



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

September 11, 2007

Docket No. 030-37309
EA- 07-193

License No. 45-31174-01

James Spencer
Vice President
Volkert & Associates, Inc.
5400 Shawnee Road, STE 301
Alexandria, VA 22312

**SUBJECT: INSPECTION 030-37309/2007001, VOLKERT & ASSOCIATES, INC.,
ALEXANDRIA, VIRGINIA SITE AND THE LEESBURG, VIRGINIA SITE, AND
NOTICE OF VIOLATION**

Dear Mr. Spencer:

On May 24 and June 11, 2007, David Collins of this office conducted a safety inspection at the above address and at the field location at Battlefield Parkway and Sycolin Road, Leesburg, Virginia, respectively. The inspection was an examination of your licensed activities as they relate to radiation safety and to compliance with the Commission's regulations and the license conditions. The inspection consisted of observations by the inspector, interviews with personnel, and a selected examination of representative records. The findings were discussed with Mr. William McDowall of your organization at the conclusion of the inspection on June 11, 2007. The enclosed report presents the results of this inspection.

Based on the results of this inspection, a violation of 10 CFR 30.34(i) was identified because only one of the two required physical controls to prevent unauthorized removal of a portable nuclear gauge was in place, as described in the attached Notice of Violation. Although such violations are normally categorized at Severity Level III and considered for escalated enforcement action, we are exercising enforcement discretion to categorize this violation at Severity Level IV because: (1) one physical control existed to prevent loss or theft of the portable gauge; (2) you retained possession of the gauge; (3) you took appropriate action to correct the violation and prevent recurrence of similar violations in the future; and (4) the violation was not willful. However, any future violations of 10 CFR 30.34(i) could be categorized at Severity Level III and evaluated for a civil penalty in accordance with Section VI.C of the Enforcement Policy.

During the inspection the inspector determined that the immediate actions you took to correct the violation included providing an additional barrier to secure portable gauges from unauthorized removal. Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

Current NRC regulations are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Medical, Industrial, and Academic Uses of Nuclear Material**; then **Regulations, Guidance, Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **Site Map**, then scroll to **Enforcement Policy**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 8:00 p.m. EST, Monday through Friday (except Federal holidays).

If you have any questions concerning this matter, please contact Marie Miller of my staff at 610-337-5205.

Sincerely,

Original signed by Brian Holian

Brian E. Holian, Director
Division of Nuclear Materials Safety

Enclosure:

1. NRC Inspection Report No. 03037309/2007001
2. Notice of Violation

cc:

William D. McDowall, P.E., Radiation Safety Officer
Commonwealth of Virginia

J. Spencer

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cc:

William D. McDowall, P.E., Radiation Safety Officer
Commonwealth of Virginia

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NOTICE OF VIOLATION

Volkert & Associates, Inc.
Alexandria, VA

Docket No. 03037309
License No. 45-31174-01
EA No. 07-193

During an NRC inspection conducted on May 24 and June 11, 2007, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

- A. 10 CFR 30.34(i) requires each portable gauge licensee to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

Contrary to the above, the licensee houses its portable gauge in a welded steel box which is secured by a padlocked door forming a single tangible barrier to secure gauges from unauthorized removal when the gauge is not under the control and surveillance of the licensee at its construction site at the intersection of Battlefield Parkway and Sycolin Road, Leesburg, Virginia.

This is a Severity Level IV violation (Supplement VI).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to be taken to correct the violations and prevent recurrence, and the date when full compliance was achieved are already adequately addressed on the docket in the letter transmitting this Notice of Violation (Notice). However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, Inspection Report No. 03037309/2007001," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administration, Region I, within 30 days of the date of the letter transmitting this Notice.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

If you contest this enforcement action, you should also provide a copy of your response to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, any response which contests an enforcement action shall be submitted under oath or affirmation.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated This 11th day of September 2007

U.S. NUCLEAR REGULATORY COMMISSION
REGION I

INSPECTION REPORT

Inspection No. 030-37309/2007001
Docket No. 030-37309
License No. 45-31174-01
Licensee: Volkert & Associates, Inc.
Address: 5400 Shawnee Road, STE 301
Alexandria, Virginia 22312
Locations Inspected: Main office and Construction site at Battlefield Parkway,
Leesburg, Virginia
Inspection Dates: May 24 and June 11, 2007

Original signed by: MMiller **9/10/07**

Inspectors:

David J. Collins, Health Physicist
James Schmidt, Health Physicist

date

Original signed by: MMiller **9/10/07**

Approved By:

Marie T. Miller, Chief
Materials Security and Industrial Branch
Division of Nuclear Materials Safety

date

EXECUTIVE SUMMARY

Volkert & Associates, Inc.
NRC Inspection Report No. 03037309/2007001

A safety inspection was conducted at the licensee's long-term field location at the intersection of Battlefield Parkway and Sycolin Road, Leesburg, Virginia on May 24, 2007. The inspection continued on June 11, 2007 in the licensee's main office in Alexandria, Virginia.

The licensee performs quality control activities for the project owner and stores its portable gauge in a locked steel box secured to the ground outside the primary contractor's trailer. However, if the first barrier is broken, the portable gauge is stored within another box that was not secured by a second independent means against unauthorized removal, when not under the direct control and surveillance of the licensee. Although the transportation box was locked and the gauge operating handle was locked, the transportation box could be removed from the site, if only one barrier was defeated.

One apparent violation of NRC requirements was identified for the failure to use two independent means of securing a portable gauge from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee, as required by 10 CFR 30.34(i). Specifically, as of May 24, 2007, the inspector identified that a portable gauge was stored in a locked and ground-secured box; however, a second independent means to secure the transportation case containing the portable gauge against unauthorized removal, was not employed, for periods of time when the device was not under direct control of the licensee.

REPORT DETAILS

I. Organization and Scope of the Program

a. Inspection Scope

A review was performed of the organization and scope of Volkert & Associates, Inc. licensed program. The inspection was conducted at the office location and the long-term field site at Battlefield Parkway (formerly Lawson Road) and Sycolin Road. The inspection included an examination of selected records at the main office location and at the field site for radiation exposure, transportation, leak test, inventory, training and use.

b. Observations and Findings

The inspector surveyed the field storage location, and the portable gauge transportation box, finding radiation levels not exceeding 0.1 milliroentgens per hour (mR/hr) on the exterior surfaces of each. Survey meter used was an Xetex 305B (NRC SN 025713, calibration due September 14, 2007).

c. Conclusions

No violations of NRC requirements were identified.

II. Facilities and Equipment

a. Inspection Scope

The inspector reviewed the licensee's use of portable gauges. Information was gathered by direct inspection of the licensee's facilities and equipment located at a long-term field site located in Leesburg, Virginia (at the intersection of Battlefield Parkway and Sycolin Road), through interviews with cognizant personnel, and a review of records.

b. Observations and Findings

The licensee possesses and uses a Troxler Model 3440 portable gauge. The inspector examined the storage container and the means of securing the portable gauge. The container is a steel box, having a steel door and a padlock shield which provides access to the key cylinder of the padlock. The box is provided with steel angle iron legs which are bolted to 4" x 4" posts secured into the ground. No fencing of any kind is around the box. The box is about 20 feet from the construction office trailer.

When opened, the box contained a Troxler Model 3440 portable gauge in its transportation box. The box was locked as was the gauge handle. The gauge in its shipping box was not secured to the locked box.

c. Conclusions

The inspector determined that the locked and ground-secured box formed only one tangible barrier. As required by 10 CFR 30.34(i), the portable gauge was not secured by a second independent means against unauthorized removal when not under the direct control or surveillance of the licensee. This is a violation of 10 CRR30.34(i).

III. Transportation

a. Inspection Scope

The inspector reviewed the measures for transporting the portable gauge outside the gauge storage site.

b. Observations and Findings

The inspector noted that the licensee transports the portable gauge in a closed vehicle, and secures the device against removal and movement. The inspector determined that the documentation available was appropriate and would be carried in a properly accessible location.

c. Conclusions

No violation of NRC requirements was identified.

IV. Exit Meeting

On June 11, the inspector met with Mr. McDowall, Radiation Safety Officer for your organization, and discussed the results of the inspection.

PARTIAL LIST OF PERSONS CONTACTED

Licensee

John Sprinkler, Field Engineer

William McDonald III, Radiation Safety Officer at the main office and by telephone