August 20, 2008

EA-08-215

Joshua A. Gottschall
Radiation Safety Officer
Wilcox Associates, Inc.
One Madison Avenue
Cadillac, MI 49601

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-20901/2008-001(DNMS) – WILCOX ASSOCIATES, INC.

Dear Mr. Gottschall:

This letter refers to the inspection conducted on July 21, 2008, at your Caledonia, Michigan, facility. The purpose of this inspection was to examine activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions in your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of activities, and interviews with personnel. The enclosed report presents the results of this inspection.

Based on the results of this inspection, one apparent violation of 10 CFR 30.34(i) was identified and is being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at (http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html). The apparent violation involved a failure to use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge whenever the gauge is not under the control and constant surveillance of the licensee. The circumstances surrounding the apparent violation, the significance of the issues, and the need for lasting and effective corrective action were discussed with members of your staff at the inspection exit meeting on July 21, 2008. As a result, it may not be necessary to conduct a Pre-decisional Enforcement Conference (PEC) in order to enable the NRC to make an enforcement decision.

In addition, since your facility has not been the subject of escalated enforcement actions within the last two inspections, and based on our understanding of your corrective action, a civil penalty may not be warranted in accordance with Section VI.C.2 of the Enforcement Policy. The final decision will be based on your confirming on the license docket that the corrective actions previously described to the staff have been or are being taken.

Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond to the apparent violation addressed in this inspection report within 30 days of the date of this letter or (2) request a PEC. If a PEC is held, it will be open for public observation, and the NRC will issue a press release to announce the time and date of the conference. Please contact Patrick Louden at (630) 829-9627 within 7 days of the date of this letter to notify the NRC of your intended response.

If you choose to provide a written response, it should be clearly marked as a "Response to an Apparent Violation in Inspection Report No. 030-20901/2008-001(DNMS); EA-08-215" and should include for each apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent 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 previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC.

If you choose to request a PEC, the conference will afford you the opportunity to provide your perspective on the apparent violation and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violation. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful.

In addition, please be advised that the number and characterization of apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response, if you choose to provide one, 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. 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 you have any questions concerning this matter, please contact Patrick Louden of my staff at (630) 829-9627.

Sincerely,

/RA/ by M. Delligatti acting for

Steven A. Reynolds, Director
Division of Nuclear Materials Safety

Docket No. 030-20901
License No. 21-23314-01

Enclosure(s):
1. Inspection Report
2. Excerpt from NRC Information Notice 96-28.

cc: State of Michigan

If you have any questions concerning this matter, please contact Patrick Louden of my staff at (630) 829-9627.

Sincerely,

Steven A. Reynolds, Director
Division of Nuclear Materials Safety

Docket No. 030-20901
License No. 21-23314-01

Enclosure(s):
1. Inspection Report (Non Public)
2. Excerpt from NRC Information Notice 96-28.

cc: State of Michigan

DISTRIBUTION:
See next page

Letter to Joshua A. Gottschall from Steven A. Reynolds dated August 20, 2008

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U.S. NUCLEAR REGULATORY COMMISSION

REGION III

Docket No.	030-20901
License No.	21-23314-01
Report:	030-20901/2008-001(DNMS)
Licensee:	Wilcox Associates, Inc.
Location Inspected:	8180 Broadmoor Avenue Caledonia, Michigan
Inspection Date:	July 21, 2008
Exit Meeting:	July 21, 2008
Inspector:	Geoffrey Warren, Health Physicist
Approved by:	Patrick L. Louden, Chief Materials Inspection Branch

EXECUTIVE SUMMARY

Wilcox Associates, Inc.
Cadillac, Michigan
NRC Inspection Report 030-20901/2008-001(DNMS)

This was a routine inspection conducted on July 21, 2008, to review the activities conducted under the license as they relate to safety and compliance with the Commission's rules and regulations and with conditions in the license.

The inspector identified an apparent violation of Title 10 Code of Federal Regulations (CFR) Part 30.34(i) associated with an authorized user's failure to use a minimum of two independent physical controls that form tangible barriers to secure the portable gauge whenever the portable gauge is not under the control and constant surveillance of the licensee. This involved the use of only one lock and chain to secure the gauge case in the back of a closed-bed pick-up truck.

The inspector determined that the root cause for the apparent violation was the gauge user's oversight in forgetting to lock the back of the truck where the gauge was stored. The licensee's corrective actions for the apparent violation include: (1) immediately locking the back of the truck where the gauge was stored; (2) counseling the gauge user who had left the door unlocked to ensure he understood the security requirements for portable gauges; (3) reminding all gauge users at the Caledonia office about gauge security requirements; and (4) sending a memorandum to all site RSOs to verify that all gauge users were securing the gauges properly in vehicles. The Assistant Site RSO notified the inspector by telephone that the memorandum was sent on July 22, 2008.

Report Details

1 Program Scope and Inspection History

Wilcox Associates, Inc. (licensee) used portable gauges out of six offices in Michigan to evaluate physical properties at various road and construction sites in Michigan. The licensee is authorized by NRC License No. 21-23314-01 to possess and use portable gauges at temporary job sites anywhere in the United States where the NRC maintains regulatory jurisdiction. At the time of the inspection, the licensee possessed Troxler 3400 Series gauges at the licensee's office in Caledonia, Michigan.

The licensee was previously inspected with no violations identified in August 1997 and September 2002.

2 Security of Portable Gauges

2.1 Inspection Scope

The inspector reviewed the licensee's method of securing portable gauges by interviewing the authorized users and the licensee's Assistant Site Radiation Safety Officer (RSO), observing selected licensed activities, and reviewing selected licensee records.

2.2 Observations and Findings

The inspector observed a gauge stored in an unattended vehicle in the parking lot of the licensee's office in Caledonia, Michigan. The gauge was stored in the back of a closed-bed truck. Inside the back of the truck, the gauge was secured to the vehicle by means of a single chain which was arranged to secure the lid of the gauge case closed. The gauge case had an additional lock to secure the lid closed. The door to the back of the truck was not locked, but the Assistant Site RSO stated that it should have been locked.

Title 10 Code of Federal Regulations (CFR) 30.34(i) requires that the licensee use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever the gauges are not under the control and constant surveillance of the licensee. The licensee's use of only one lock and chain to secure the unattended gauge case in the back of a closed-bed pick-up truck is an apparent violation of 10 CFR 30.34(i).

The root cause of the violation was the gauge user's oversight in forgetting to lock the back of the truck. The licensee implemented the following corrective actions to prevent a similar violation: (1) immediately locked the back of the truck where the gauge was stored; (2) counseled the gauge user who had left the door unlocked to ensure he understood the security requirements for portable gauges; (3) reminded all gauge users at the Caledonia office about gauge security requirements; and (4) sent a memorandum to all Site RSOs to verify that all gauge users were securing the gauges properly in vehicles. The Assistant Site RSO notified the inspector by telephone that the memorandum was sent on July 22, 2008.

In addition, the inspector observed a gauge in storage in the licensee's office in Caledonia, Michigan. This storage was performed in accordance with 10 CFR 30.34(i).

2.3 Conclusions

The inspector identified an apparent violation of 10 CFR 30.34(i) involving the licensee's failure to use a minimum of two independent physical controls that form tangible barriers to secure the portable gauge whenever the portable gauge was not under the control and constant surveillance of the licensee. The licensee committed to implement corrective actions to prevent a similar violation.

3 Other Areas Inspected

3.1 Inspection Scope

The inspector reviewed other areas of the licensee's radiation safety program by reviewing selected licensee records, including dosimetry records, shipping papers, and emergency procedures; observing activities at a temporary job site at Morrison Lake Road and Grand River Avenue south of Saranac, Michigan; and interviewing the Assistant Site RSO, the Corporate RSO, and gauge users.

3.2 Observations and Findings

The licensee performed gauge inventories and leak tests at required frequencies, and maintained a dosimetry program which demonstrated that no individual received a radiation exposure in excess of regulatory limits. Shipping papers containing all required information and other appropriate documents were available in binders which were kept in vehicle cabs while gauges were in transport. The gauge user at the temporary job site provided adequate control of the gauge and understood emergency procedures to be followed if the gauge were damaged. The licensee Corporate RSO provided oversight over all facilities authorized on the license.

3.3 Conclusions

No violations of NRC requirements were identified.

4 Exit Meeting Summary

The inspector discussed the preliminary conclusions, as described in this report, with licensee management during the exit meeting conducted at the licensee's facility on July 21, 2008. The inspector discussed the activities reviewed, the inspection findings, and the apparent violation. The licensee did not identify any information reviewed during the inspection and proposed for inclusion in the inspection report as proprietary in nature.

PARTIAL LIST OF PERSONNEL CONTACTED

Todd Boerman, Staff Engineer
Matt Fennima, Staff Engineer
Joshua Gottschall, RSO (by telephone)
* Troy Schreur, Project Director, Assistant Site RSO
* Jim Swanson, Office Manager

* attended the exit meeting on July 21, 2008