July 10, 2009

EA-09-165

Mr. Otto Kruger, President
Kruger Technologies, Inc. (KTI)
14705 West 114th Terrance
Lenexa, Kansas 66215

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-30164/2009-001(DNMS) – KRUGER TECHNOLOGIES, INC. (KTI)

Dear Mr. Kruger:

On June 12, 2009, a Nuclear Regulatory Commission (NRC or the Commission) staff member conducted a routine inspection at your facility located in Knob Noster, Missouri. This inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of 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, an apparent violation 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 Web site at http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html. The apparent violation involved the failure to use a minimum of two independent physical controls that form tangible barriers to secure a portable gauge whenever the gauge was not under your control and constant surveillance, as required in 10 CFR 30.34(i). The inspector discussed the circumstances of the apparent violation, the significance of the issues, and the need for lasting and effective corrective action with the Radiation Safety Officer during the exit meeting on June 12, 2009.

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 the fact that the corrective actions previously described to the staff have been 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 predecisional enforcement conference. If a conference is held, it will be open for public observation. The NRC will also issue a press release to announce the conference. Please contact Tamara Bloomer at (630) 829-9627 within seven 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.030-30164/2009-001(DNMS); EA-09-165" 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. 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 NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be helpful. 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 predecisional enforcement conference.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, 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 agencywide documents access and management system (ADAMS), accessible from the NRC Web site at http://www.nrc.gov/readingrm/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.

Sincerely,

/RA/

Steven A. Reynolds, Director
Division of Nuclear Materials Safety

Docket No. 030-30164
License No. 24-25827-01

cc: Calvin Hiebert, Radiation Safety Officer
State of Missouri

Enclosures:
1. Inspection Report No.: 030-30164/2009-001(DNMS)
2. NRC Information Notice 96-28

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Steven A. Reynolds, Director
Division of Nuclear Materials Safety

Docket No. 030-30164
License No. 24-25827-01

cc: Calvin Hiebert, Radiation Safety Officer
State of Missouri

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Letter to Mr. Otto Kruger from Steven A. Reynolds dated July 10, 2009

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-30164/2009-001(DNMS) – KRUGER TECHNOLOGIES, INC. (KTI)

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REGION III

Docket No.	030-30164
License No.	24-25827-01
Report No.	030-30164/2009-001(DNMS)
Licensee:	Kruger Technologies, Inc. (KTI)
Location Inspected:	219 B North State Street Knob Noster, Missouri 65336
Inspection Date:	June 12, 2009
Exit Meeting:	June 12, 2009
Inspector:	Michael LaFranzo, Health Physicist
Approved By:	Tamara Bloomer, Chief Materials Inspection Branch

EXECUTIVE SUMMARY

Kruger Technologies, Inc. (KTI)
Knob Noster, Missouri
NRC Inspection Report 030-30164/2009-001(DNMS)

This was a routine inspection conducted on June 12, 2009, to evaluate Kruger Technologies, Inc.'s (licensee) radiation safety program performance relating to the use and security of licensed material and associated documentation to ensure compliance with NRC requirements.

The licensee is an engineering company located in Knob Noster, Missouri. Its NRC License No. 24-25827-01 authorized the use of Troxler Models 3411-B and 3400 series portable moisture density gauges containing licensed material for measuring physical properties of materials.

During the inspection, the inspector identified an apparent violation of Title 10 Code of Federal Regulations (CFR) Part 30.34(i) associated with 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 is not under the control and constant surveillance of the licensee. The apparent violation involved the licensee storing a moisture density gauge in a locked area equipped with only one padlock on the door.

The root cause of the apparent violation was the licensee's failure to ensure all physical barriers were in place at all times when authorized personnel were not in the area to secure the gauge in storage.

The licensee implemented corrective actions, at the time of the inspection, to ensure compliance with NRC regulations by adding a second padlock to the storage room door. Additionally, the licensee committed to retrain all gauge operators concerning the required two independent physical controls.

Report Details

1 Program Scope and Inspection History

Kruger Technologies, Inc. (licensee) is authorized by NRC License No. 24-25827-01 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 moisture density gauges containing authorized quantities of licensed material. The licensee used the gauges in the Knob Noster, Missouri area during construction season.

The licensee was previously inspected on January 5, 2004 and December 2, 1998. No violations were identified during those inspections.

2 Security of Portable Gauge

2.1 Inspection Scope

The inspector reviewed the licensee's method of securing the portable gauge by observing selected activities and interviewing the Radiation Safety Officer (RSO) and an authorized user.

2.2 Observations and Findings

During a routine inspection at the licensee's Knob Noster, Missouri office, the inspector observed that a portable moisture density gauge, which contained licensed material was located within a storage area of the licensee's facility, was not secured within the storage area with two independent physical controls. Specifically, the door to the storage area had one padlock to secure the storage area door, the gauge transportation case, containing the gauge, was not secured to the inside of the storage area and a roll up door to the area was open without an authorized individual to maintain security of the area. Therefore, an unauthorized individual could gain access to the gauge by breaching only one barrier.

Title 10 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 failure to use two barriers to secure the unattended gauge in a storage area is an apparent violation of 10 CFR 30.34(i).

The root cause of the apparent violation was the licensee's failure to ensure all physical barriers were in place at all times when authorized personnel were not in the area to secure the gauge in storage. During interviews with licensee staff, they indicated that the roll up door is normally closed and locked to provide a second barrier to secure the moisture density gauge when an authorized individual is not in the area to provide security for the gauge. In the evening or at other times the building is vacant, the roll up and other exterior doors at the facility are closed and locked to secure, not only the gauge, but also other materials within the facility.

The licensee implemented corrective actions to ensure compliance with NRC regulations by, at the time of the inspection, adding a second padlock to the storage room door and

committed to retraining all gauge operators concerning the required two independent physical controls.

2.3 Conclusions

The inspector identified an example of 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 a portable gauge whenever the gauge was not under the control and constant surveillance of the licensee. The licensee took immediate 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 interviewing licensee staff and reviewing selected licensee records, including training records, shipping papers, physical inventories, leak testing, and emergency procedures; and interviewed the RSO and gauge operator.

3.2 Observations and Findings

The inspector interviewed licensee staff and, except as noted above, noted that the individuals had adequate knowledge to ensure the safe use of licensed material. Shipping papers were kept in the vehicle cab when the gauge was transported to temporary job sites. The shipping papers contained all the required information. Inventories and leak testing of portable moisture/density gauges were performed every six months. Results of leak tests did not identify any leaking sealed sources. Authorized users had attended appropriate training and records were maintained by the licensee.

3.3 Conclusions

No violations of NRC requirements were identified.

4 Exit Meeting Summary

The inspector discussed the conclusions, as described in this report, with the Radiation Safety Officer during the exit meeting conducted on June 12, 2009. The inspector attempted to contact the licensee's president who was unavailable to discuss the inspection findings. The licensee did not identify any information that was reviewed during the inspection, or proposed for inclusion in the inspection report, as proprietary in nature.

Partial List Of Personnel Contacted

* Calvin Hiebert, Radiation Safety Officer
Travis Taylor, Gauge Operator