December 31, 2009

EA-09-312

Mr. Ed Willett, II
Regional Manager
Kanawha Scales & Systems, Inc.
5525 Chantry Dr.
Columbus, OH 43232

SUBJECT: NRC INSPECTION REPORT NO. 150-00034/2009-001(DNMS) – KANAWHA SCALES & SYSTEMS, INC.

Dear Mr. Willett:

On November 19, 2009, Raj Patel of your staff, as a representative of Kanawha Scales & Systems, Inc., a State of Ohio licensee, contacted the Nuclear Regulatory Commission (NRC) Region III to report that personnel from your company had performed activities requiring a license at Amherst Industries in Charleston, West Virginia, without filing NRC Form 241, "Report of Proposed Activities in Non-Agreement States," with the NRC Region III office prior to performing the activities.

Based on our review of the information provided, one 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's Web site at (http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html). The apparent violation is addressed in Title 10 Code of Federal Regulations (CFR) Part 150.20(b)(1), and is associated with the company's failure to file NRC Form 241 prior to performing activities requiring a license in a non-agreement state. The circumstances surrounding the apparent violation, the significance of the issue, and the need for lasting and effective corrective action were discussed with your staff at the inspection exit meeting on December 1, 2009. As a result, it may not be necessary to conduct a predecisional enforcement conference 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 under your previous NRC license, 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 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 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. 150-00034/2009-001(DNMS); EA-09-312" and should include for the 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 excerpt from 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 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 enclosures, and your response, if you choose to provide one, will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC website 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.

Sincerely,

/RA/By Patrick L. Louden Acting For/

Steven A. Reynolds, Director
Division of Nuclear Materials Safety

Docket No. 150-00034
Ohio License No. 3214130000; NRC
General License under 10 CFR 150.20

Enclosures:
1. Inspection Report
2. Excerpt from NRC Information Notice 96-28.

cc (w/encls): State of Ohio
Raj Patel, Cincinnati Branch Manager,
Kanawha Scales & Systems, Inc.

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Sincerely,

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cc (w/encls): State of Ohio
Raj Patel, Cincinnati Branch Manager,
Kanawha Scales & Systems, Inc

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Letter to Ed Willett from Steven A. Reynolds dated December 31, 2009

SUBJECT: NRC INSPECTION REPORT NO. 150-00034/2009-001(DNMS) – KANAWHA SCALES & SYSTEMS, INC.

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REGION III

Docket No.	150-00034
License No.	Ohio License No. 03214130000
Report:	150-00034/2009-001(DNMS)
Licensee:	Kanawha Scales & Systems, Inc. Milford, Ohio
Location of work:	Amherst Industries Charleston, West Virginia
Inspection Date:	November 19 – December 1, 2009
Exit Meeting:	December 1, 2009
Inspector:	Geoffrey M. Warren, Health Physicist
Approved by:	Tamara E. Bloomer, Chief Materials Inspection Branch

Enclosure 1

EXECUTIVE SUMMARY

Kanawha Scales & Systems, Inc.
Milford, Ohio
NRC Inspection Report 150-00034/2009-001(DNMS)

On November 19, 2009, the Cincinnati Branch Manager of Kanawha Scales & Systems, a State of Ohio licensee, notified the Nuclear Regulatory Commission (NRC) Region III that company personnel had performed activities requiring a license at Amherst Industries in Charleston, West Virginia, without first submitting NRC Form 241, "Report of Proposed Activities in Non-Agreement States." West Virginia is a non-agreement state, so the company was required to file the form with NRC Region III at least three days prior to beginning activities requiring a license. The company had previously held an NRC license for several years, which would have allowed the work in West Virginia, but had terminated the license in May 2009.

The inspector identified an apparent violation of Title 10 Code of Federal Regulations (CFR) Part 150.20(b)(1) associated with the company's failure to file NRC Form 241 prior to performing activities requiring a license in a non-agreement state.

The inspector determined that the root cause for the apparent violation was that company personnel who arranged and performed the work in West Virginia forgot that their NRC license had been terminated and that they were required to file for reciprocity prior to performing the work. Because they had held the NRC license for several years, they had become used to entering West Virginia to perform licensed activities without notifying the NRC. As corrective action, the company: (1) submitted Form 241 retroactively for calendar year 2009 and for calendar year 2010, paying the $1800 fee for each year; (2) held a training session to ensure all involved personnel knew about the requirement to file for reciprocity for each calendar year to allow work in West Virginia or other non-agreement states; and (3) stated that they would revise their procedure to require filing for reciprocity prior to working in a non-agreement state in each calendar year.

REPORT DETAILS

1 Program Scope and Inspection History

Kanawha Scales & Systems, Inc. (company), is a State of Ohio licensee, authorized by Ohio License No. 03214130000 to distribute gauges and perform non-routine maintenance, including installation, removal, and disposal, of fixed gauges at temporary jobsites in the State of Ohio.

For several years, the company had previously operated in West Virginia under Nuclear Regulatory Commission (NRC) License No. 47-25499-01, which authorized non-routine gauge maintenance, including installation, removal, and disposal of fixed gauges at temporary job sites in NRC jurisdiction. The company had terminated their NRC license on May 27, 2009. Under their NRC license, they were inspected on September 29, 2000, and on July 13, 2005. No violations were noted in these inspection reports.

2 Reciprocity

2.1 Inspection Scope

The inspector discussed the situation with the Cincinnati Branch Manager and reviewed conversation records documenting the Region I interactions with the company.

2.2 Observations and Findings

On November 19, 2009, the Cincinnati Branch Manager contacted the NRC Region III by telephone. He stated that on November 2, 2009, company personnel had decommissioned and removed fixed gauges, activities requiring a license, at Amherst Industries, a NRC licensee (License No. 47-25491-01) located in Charleston, West Virginia, and shipped the gauges back to the company's Ohio facility for disposal. Amherst Industries was in the process of terminating their NRC license.

As part of the license termination process, NRC Region I personnel noted that a State of Ohio licensee had removed and shipped the gauges, and asked for verification from Amherst Industries that the company had acquired reciprocity for the work. Amherst Industries asked Kanawha Scales & Systems, Inc. to contact the Region I office. Region I personnel determined that the company had not filed NRC Form 241 with the NRC Region III office before performing the work and asked the Cincinnati Branch Manager to contact Region III.

Title 10 Code of Federal Regulations (CFR) Part 150.20(a) provides, in part, that any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in non-Agreement States, provided that the provisions of 10 CFR 150.20(b) have been met. Title 10 CFR 150.20(b)(1) requires, in part, that any person engaging in activities in non-Agreement States shall, at least 3 days before engaging in each such activity, file 4 copies of NRC Form 241, "Report of Proposed Activities in Non-Agreement States," with the Regional Administrator of the appropriate NRC regional office. The company's failure to file NRC Form 241 with the

NRC Region III office prior to performing in licensed activities in the State of West Virginia is an apparent violation of 10 CFR 150.20(b)(1).

The root cause of the violation was a lack of attention to detail in that company personnel forgot that the Nuclear Regulatory Commission license had been terminated, and that they now needed to file for reciprocity prior to work in West Virginia. Because they had held the NRC license for several years, they had become used to entering West Virginia to perform licensed activities without notifying the NRC.

As corrective action, the company has retroactively filed NRC Form 241 for calendar year 2009, and has filed the form for calendar year 2010, paying the $1800 fee for each year. As further corrective action, company personnel stated that: (1) they held a training session to ensure that all personnel who could deal with radioactive materials are aware of the need for reciprocity in NRC states, and (2) they plan to include the requirement in their ISO procedure during its next revision in January 2010.

2.3 Conclusions

The inspector identified an apparent violation of 10 CFR 150.20(b)(1) involving the company's failure to file NRC Form 241 prior to performing activities requiring a license in West Virginia. The company committed to implementing corrective actions to prevent a similar violation.

3 Exit Meeting Summary

The inspector discussed the preliminary conclusions, as described in this report, with the Cincinnati Branch Manager during the exit meeting conducted by telephone on December 1, 2009. The inspector discussed the inspection findings and the apparent violation. The company did not identify any information reviewed during the inspection and proposed for inclusion in the inspection report as proprietary in nature.

LIST OF PERSONS CONTACTED

* Raj Patel, Cincinnati Branch Manager, Kanawha Scales & Systems, Inc.

* attended the exit meeting by telephone on December 1, 2009