



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

May 11, 2005

Docket No. 03035123

License No. 45-25476-01

Larry K. Crouse, Sr.  
Safety Manager, The Day Companies  
Loudoun County Asphalt Company, L.L.C.  
42050 Cochran Mill Road  
Leesburg, VA 20175

**SUBJECT: INSPECTION 03035123/2005001, LOUDOUN COUNTY ASPHALT COMPANY, L.L.C., LEESBURG, VIRGINIA SITE AND NOTICE OF VIOLATION**

Dear Dr. Crouse:

On April 7, 2005, Jenny Johansen of this office conducted a safety inspection at the above address of activities authorized by the above listed NRC license. 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. Additional information provided in telephone conversations on April 11, 25, and 27, 2005, between you and Ms. Johansen was also examined as part of the inspection. The findings of the inspection were discussed with of you at the conclusion of the inspection.

Based on the results of this inspection, it appears that your activities were not conducted in full compliance with NRC requirements. A Notice of Violation is enclosed that categorizes each violation by severity level in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG 1600. 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. Your response may reference or include previous docketed correspondence, if the correspondence adequately addresses the required response. After reviewing your response to this Notice, including your proposed corrective actions and the results of future inspections, the NRC will determine whether further NRC enforcement action is necessary to ensure compliance with NRC regulatory requirements.

Current NRC regulations and guidance are available at the NRC Web sites listed below or by contacting the Government Printing Office (GPO) toll-free at 1-888-293-6498. The GPO is open from 7:00 a.m. to 9:00 p.m. EST, Monday through Friday (except Federal holidays).

L. Crouse  
Loudoun County Asphalt Company, L.L.C.

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Your cooperation with us is appreciated.

Sincerely,

***Original signed by John D. Kinneman***

John D. Kinneman, Chief  
Security and Industrial Branch  
Division of Nuclear Materials Safety

Enclosure:  
Notice of Violation

NRC Web site addresses  
NRC regulations

<http://www.nrc.gov/reading-rm/doc-collections/cfr/>

Licensing guidance

<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/>

General Policy and Procedure for NRC Enforcement Actions

<Http://www.nrc.gov/what-we-do/regulatory/enforcement/enforc-pol.pdf>

206 of the Energy Reorganization Act of 1974

<http://www.nrc.gov/who-we-are/governing-laws.html>

cc:  
Cheryl Bowers, Radiation Safety Officer  
Commonwealth of Virginia

L. Crouse  
Loudoun County Asphalt Company, L.L.C.

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D. J. Holody, RI

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OFFICE	DNMS/RI	N	DNMS/RI	N	DNMS/RI			
NAME	Jjohansen JDK		JDKinneman					
DATE	04/27/2005		05/07/2005					

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## NOTICE OF VIOLATION

Loudoun County Asphalt Company, L.L.C.  
Leesburg, VA

Docket No. 03035123  
License No. 45-25476-01

During an NRC inspection conducted on April 7, 2005, three violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," (Enforcement Policy), NUREG-1600, the violations are listed below:

- A. 10 CFR 30.41(c) requires, in part, that before transferring by product material to a specific license of the Commission or an Agreement State, the licensee transferring the material verify that the transferee's license authorizes the receipt of the type, form and quantity of byproduct material to be transferred. Acceptable methods of verification are outlined in 10 CFR 30.41(d).

Contrary to the above, the licensee transferred a Troxler Model 4640-B portable gauge containing 9 millicuries of cesium-137 to the F.O. Day Company, at the Frederick Asphalt, Frederick, MD, site on May 21, 2003, and did not verify by a method outlined in 10 CFR 30.41(d) that the transferee's license authorizes the receipt of the type, form and quantity of byproduct material to be transferred. From May 21, 2003 to April 7, 2005, the same gauge was received from and transferred to the same organization several times each year and the licensee did not verify that the transferee's license authorizes the receipt of the type, form and quantity of byproduct material to be transferred.

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

- B. Condition 13 of License No. 45-25476-01 requires, in part, that in absence of a certificate from a transferor indicating that a leak test had been made within the intervals specified in the certificate or registration issued by NRC under 10 CFR 32.210 or by an Agreement State prior to the transfer, a sealed source received from another person shall not be put into use until tested.

Contrary to the above, from May 21, 2003 through April 7, 2005, the licensee has received from another person and put into use several times each year, a Troxler Model 4640-B portable gauge containing 9 millicuries of cesium-137 and did not receive a leak test certificate from the transferor indicating that a leak test had been made within the intervals specified in the certificate or registration issued by NRC under 10 CFR 32.210 or by an Agreement State prior to the transfer and did not leak test the gauge prior to use.

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

Loudoun County Asphalt Company, L.L.C.

- C. Condition 16 of License No. 45-25476-01 requires, in part, the licensee conduct a physical inventory every 6 months to account for all sources received and possessed under the license.

Contrary to the above as of April 7, 2005, the licensee has not conducted a physical inventory every 6 months to account for all sources received and possessed under the license for the years 2003 and 2004.

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

Pursuant to the provisions of 10 CFR 2.201, Loudoun County Asphalt Company, L.L.C. is 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 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 the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

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.

Your response will be placed in the NRC Public Document Room (PDR) and on the NRC Web site at <http://www.nrc.gov/reading-rm.html>. To the extent possible, it should, therefore, not include any personal privacy, proprietary, or safeguards information so that it can be made publically available 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.

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

Dated This 11<sup>th</sup> day of May 2005