

August 11, 2005

Daniel Toy  
Manager  
Lapeer County Road Commission  
P.O. Box 678  
Lapeer, MI 48446

SUBJECT: NRC INSPECTION AND NOTICE OF VIOLATION  
LAPEER COUNTY ROAD COMMISSION

Dear Mr. Toy:

This refers to the inspection conducted on July 12, 2005, at your Lapeer, Michigan facility, with continued in-office review through July 27, 2005. The purpose of the inspection was to determine whether activities authorized by the license were conducted safely and in accordance with NRC requirements. Our in-office review included a review and discussions regarding your sealed source leak tests and the training and experience of your proposed Radiation Safety Officer. At the conclusion of the inspection, the findings were discussed with members of your staff.

The inspection was an examination of activities conducted under your license as they relate to radiation safety and to compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selective examinations of procedures and representative records, interviews with personnel, independent measurements and observation of activities in progress.

Based on the results of this inspection, the NRC has determined that two violations of NRC requirements occurred. The violations involve: (1) an unauthorized individual acting as your Radiation Safety Officer (RSO), and (2) the failure to perform sealed source leak tests at six-month intervals on one of your moisture/density gauges. The violation regarding an authorized RSO is similar to one that was identified during our previous inspection on August 11, 1999. The violations are cited in the enclosed Notice of Violation (Notice). Please note that 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 to this letter, please describe why your proposed corrective actions are expected to be more successful in preventing future or similar violations than the corrective actions taken in the past. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically in the NRC Public Document Room or

D. Toy

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from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). The NRC's document system is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

**/RA/**

John R. Madera, Chief  
Materials Inspection Branch

Docket No. 030-14074  
License No. 21-18710-01

Enclosure: Notice of Violation

Distribution:

Docket File w/encl  
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## NOTICE OF VIOLATION

Lapeer County Road Commission  
Lapeer, Michigan

Docket No. 030-14074  
License No. 21-18710-01

During an NRC inspection conducted on July 12, 2005, with continued in-office review through July 27, 2005, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violations are listed below:

- A. Condition 11 of License No. 21-18710-01 names David G. Vaughn as the Radiation Safety Officer for this license.

Contrary to the above, as of January 2005, an individual other than David G. Vaughn has served as the Radiation Safety Officer for this license.

This is a Severity Level IV Violation (Supplement VI). (Repeat)

- B. Condition No. 13 A of NRC License No. 21-18710-01 requires that sealed sources be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by NRC under 10 CFR 32.210 or by an Agreement State. The certificate of registration number NC-646-D-121-S issued by North Carolina, an Agreement State, specifies that Troxler Model 3400 Series gauges be tested for leakage and/or contamination at intervals not to exceed six months.

Contrary to the above, the licensee failed to test one Troxler Model 3411B gauge (Serial No. 7437) containing radioactive material for leakage and/or contamination between July 2, 2004, and July 22, 2005, an interval exceeding six months.

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

Pursuant to the provisions of 10 CFR 2.201, Lapeer County Road Commission is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region III, 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 or severity level; (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 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, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Because your response will be placed in the NRC Public Document Room (PDR), to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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 August 2005