

October 23, 2008

EA-08-285

John Cima  
Assistant County Engineer  
Houghton County Road Commission  
20140 E. Cagnon Circle  
P. O. Box 269  
Hancock, MI 49930

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 030-32245/2008-001(DNMS) –  
HOUGHTON COUNTY ROAD COMMISSION

Dear Mr. Cima:

This refers to the inspection conducted on September 23 and 24, 2008, at your Hancock, 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 Title 10 Code of Federal Regulations (CFR) Part 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 Mr. Robert Bessonon at the conclusion of the inspection on September 24, 2008, and with you via telephone on October 14, 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 John Madera at (630) 829-9721 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. 030-32245/2008-001(DNMS); EA-08-285" 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 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'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.

J. Cima

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If you have any questions concerning this matter, please contact John Madera of my staff at (630) 829-9721.

Sincerely,

**/RA/**

Steven A. Reynolds, Director  
Division of Nuclear Materials Safety

Docket No. 030-32245  
License No. 21-26317-01

Enclosures:

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

cc w/encl 1: State of Michigan

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Letter to John Cima from Steven A. Reynolds dated October XX, 2008

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HOUGHTON COUNTY ROAD COMMISSION

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**U.S. NUCLEAR REGULATORY COMMISSION**

**REGION III**

Docket No. 030-32245

License No. 21-26317-01

Report: 030-32245/2008-001(DNMS)

Licensee: Houghton County Road Commission

Location Inspected: 20140 E. Cagnon Circle  
Hancock, Michigan

Inspection Date(s): September 23 and 24, 2008

Final Exit Meeting: October 14, 2008

Inspector: Samuel Mulay, Health Physicist

Approved by: Patrick Loudon, Chief  
Materials Inspection Branch

## **EXECUTIVE SUMMARY**

### **Houghton County Road Commission Hancock, Michigan NRC Inspection Report 030-32245/2008-001(DNMS)**

This was a routine inspection conducted on September 23 and 24, 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 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 occurrence involved the licensee storing a moisture/density gauge in a lockable storage cabinet equipped with a padlock; however, the padlock was open and not in the locked position. Additionally, upon retrieving the device from the storage cabinet, the inspector further observed a locked padlock on the case lid and no second independent physical barrier.

The root causes of the violation were the licensee's failure to: (1) be aware of the requirements in 10 CFR 30.34(i); (2) lock the cabinet door padlock; and (3) provide a second physical barrier inside the storage room to prevent unauthorized removal of licensed material. Further, the Radiation Safety Officer (RSO) indicated that he was unaware of the change in the regulations.

The licensee implemented corrective actions to prevent removal of the gauge from the storage cabinet by immediately locking the cabinet door. The RSO also agreed to chain and lock the device inside the cabinet. On September 24, 2008, the inspector observed the storage cabinet door padlocked as well as a chain and lock secured to the inside of the cabinet and gauge case with a second padlocked chain configuration which provided the required second physical barrier.

## Report Details

### 1 Program Scope and Inspection History

Houghton County Road Commission (licensee) possesses two Troxler 3400 Series portable moisture density gauges containing authorized quantities of licensed material, and used throughout Houghton County, Michigan during construction season to measure the density of sand and gravel at various construction sites. The licensee is authorized by NRC License No. 21-26317-01 to possess and use portable gauges at temporary job sites anywhere in the United States where the NRC maintains regulatory jurisdiction.

The licensee was previously inspected with on August 29, 1996, and August 27, 2003, with no violations identified.

### 2 Security of Portable Gauges

#### 2.1 Inspection Scope

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

#### 2.2 Observations and Findings

The inspector observed a moisture density gauge in a storage cabinet (cabinet) within an archive/storage room in an approved location in the licensee's facility in Houghton, Michigan. The inspector observed the cabinet door was equipped with a padlock; however, the padlock was opened and not in the locked position. Upon retrieving the case containing the gauge from the cabinet, the inspector further observed the transport case containing the gauge with only a padlock on the case lid and no other physical barrier. The RSO indicated that although the padlock is usually locked, it was an apparent oversight that it was left unlocked at the time of inspection. The RSO also indicated that he was unaware that Title 10 Code of Federal Regulations (CFR) 30.34(i) required two independent physical controls that form tangible barriers to secure the case and the gauge.

Title 10 CFR 30.34(i) requires that the licensee use a minimum of two independent physical barriers that form tangible barriers to secure the portable gauge from unauthorized removal, whenever the portable gauge is not under the control and constant surveillance of the licensee. The padlock securing the cabinet was not in the locked position at the time of inspection, nor did the licensee provide a second physical barrier to secure the case/gauge in the cabinet. This is an apparent violation of 10 CFR 30.34(i).

The licensee implemented corrective actions to prevent removal of the gauge from the storage cabinet by immediately padlocking the cabinet door. Subsequently, the inspector observed a re-configuration of the inside of the storage cabinet to accommodate a chain and padlock system which adequately implemented the second independent physical barrier.

The license's other gauging device was observed secured within the licensee's locked transport vehicle with two independent physical barriers as required. In subsequent discussions with the RSO, it was revealed that the inside of the locked storage cabinet has been modified to accommodate the second device, chained and padlocked within the locked storage cabinet which would demonstrate compliance with 10 CFR 30.34(i) requirements for both units.

### 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 paper documents and accessibility, leak tests, inventories, posting and labeling, independent measurements and interviews with the RSO.

### 3.2 Observations and Findings

The licensee performed gauge inventories and leak tests as required, and maintained a dosimetry program which demonstrated that no individual received a radiation exposure approaching regulatory limits. Shipping papers contained all required information and were kept in vehicle cabs while gauges were in transport. Proper posting of the storage cabinet as well as labeling of transport cases and gauges were adequately maintained. Independent measurements taken of devices did not indicate readings above expected.

### 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 RSO during the exit meeting conducted at the licensee's facility on September 24, 2008, and with Mr. Cima on October 14, 2008. The inspector discussed the areas reviewed, inspection findings, apparent violations and corrective actions. 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

\*+ Robert Bessonon, RSO

+ John Cima, Assistant County Engineer

\* Attended the preliminary exit meeting on September 24, 2008

+ Attended the final exit meeting via telephone on October 14, 2008