



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW SUITE 23T85
ATLANTA, GEORGIA 30303-8931**

September 16, 2002

CAL No. 2-02-003

Chicopee Coal Company
ATTN: Mr. Paul Moran
President
P. O. Box 3112
Charleston, West Virginia 25331

SUBJECT: CONFIRMATORY ACTION LETTER

Dear Mr. Moran:

This is in reference to preliminary findings from a Nuclear Regulatory Commission (NRC) Safety Inspection conducted on September 11 and 13, 2002, which identified that your Omega Preparation Plant facility in Lizemores, West Virginia, possessed two generally licensed fixed nuclear gauges that were apparently abandoned and not secured from unauthorized removal or access.

Pursuant to a telephone conversation between yourself and Mr. Douglas Collins and Mr. Mark Miller, of the NRC Region II office, on September 16, 2002, it is our understanding that you will take the following actions by the dates specified:

1. By September 23, 2002, have all devices in your possession that contain licensed materials (i.e. fixed nuclear gauges) removed and placed in secure storage by an individual specifically licensed by NRC or an Agreement State to perform such services.
2. By September 30, 2002, provide documentation to this office which confirms that your sealed sources have been leak tested since September 1999 or have all sealed sources tested for leakage by an individual specifically licensed by NRC or an Agreement State to perform such tests. Report unsatisfactory leak test results for any sealed sources to this office immediately.

Pursuant to Section 182 of the Atomic Energy Act, 42 U.S.C. 2232, you are required to:

1. Notify me immediately if your understanding differs from that set forth above;
2. Notify me if, for any reason, you cannot complete the actions within the specified schedule and advise me in writing of your modified schedule in advance of the change; and
3. By October 16, 2002, notify me in writing of the actions you have completed and plan to take to address this Confirmatory Action Letter (CAL).

Issuance of this CAL does not preclude issuance of an order formalizing the above commitments or requiring other actions on the part of the licensee; nor does it preclude the NRC from taking enforcement action for violations of NRC requirements that may have prompted the issuance of this letter. In addition, failure to take the actions addressed in this CAL may result in enforcement action.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and your response will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). 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. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room). 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.

Thank you for your cooperation in this manner. If you have any questions, please contact Mr. Jay Henson, Chief, Materials Licensing/Inspection Branch 2 at (404) 562-4731.

Sincerely,

/RA/

Douglas M. Collins, Director
Division of Nuclear Materials Safety

Docket No. 999-90002

cc: State of West Virginia

OFFICE	RII:DNMS	RII:EICS	HQ:NMSS				
SIGNATURE	MAM 9/16/02	CFE 9/16/02		BSM 9/16/02			
NAME	AMiller	CFEvans					
DATE	09/ /02	09/ /02	09/ /02	09/ /02	09/ /02	09/ /02	09/ /02
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
PUBLIC DOCUMENT	YES NO						

OFFICIAL RECORD COPY

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