



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

January 14, 2008

Docket No. 030-13763

License No. 37-17987-01

David F. Hartley
General Manager
Homer City Coal Processing Corporation
P. O. Box 47
Homer City, PA 15748

SUBJECT: INSPECTION 03013763/2007001, HOMER CITY COAL PROCESSING CORPORATION, HOMER CITY, PENNSYLVANIA SITE AND NOTICE OF VIOLATION

Dear Mr. Hartley:

On November 29, 2007, David Collins of this office conducted a safety inspection at 1831 Cherry Run Road, Homer City, Pennsylvania, 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 the telephone conversation on January 11, 2008, between yourself and this office was also examined as part of the inspection. The findings of the inspection were discussed with 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 (Notice) is enclosed that categorizes each violation by severity level. 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.

For additional information, the current NRC regulations are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Medical, Industrial, and Academic Uses of Nuclear Material**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **Site Map**, then scroll down to **Enforcement Policy**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 7:00 a.m. to 8:00 p.m. EST, Monday through Friday (except Federal holidays).

D. Hartley

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Please contact Mr. Collins by telephone at (404) 562-4735, or e-mail at djc3@nrc.gov should there be any questions.

Sincerely,

Original signed by Marie Miller
Marie Miller, Chief
Security and Industrial Branch
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc:
Joseph Dzielski, Radiation Safety Officer
Commonwealth of Pennsylvania

D. Hartley

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Please contact Mr. Collins by telephone at (404) 562-4735, or e-mail at djc3@nrc.gov should there be any questions.

Sincerely,

Original signed by Marie Miller
Marie Miller, Chief
Security and Industrial Branch
Division of Nuclear Materials Safety

Enclosure:
Notice of Violation

cc:
Joseph Dzielski, Radiation Safety Officer
Commonwealth of Pennsylvania

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NOTICE OF VIOLATION

Homer City Coal Processing Company
Homer City, PA

Docket No. 030-13763
License No. 37-17987-01

During an NRC inspection conducted on November 29, 2007 and January 11, 2008, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 20.1101(c) requires that a licensee periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, the licensee did not review at least annually the radiation protection program content and implementation. Specifically, the licensee did not conduct an annual review of the program during calendar years 2005-2006, nor through November 29, 2007.

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

- B. License Condition 15.A. of License No. 37-17987-01 requires that sealed sources be leak tested at intervals not to exceed those in the Certificate of Registration approved per 10 CFR 32.210 or an equivalent Agreement State regulation.

Contrary to the above, four operating TN gauges had not been leak tested during the period of May 2004 and November 29, 2007; a period of more than three years that had been approved by the State of Texas (an Agreement State) for the TN gauges in the Certificate of Registration.

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

- C. License Condition 19.A. of License No. 37-17987-01 requires shutter operability testing be performed at intervals not to exceed those in the Certificate of Registration approved per 10 CFR 32.210 or an equivalent Agreement State regulation.

Contrary to the above, as required by the Certificate of Registration issued by the State of Texas (Agreement State) the gauges in service had been tested in May 2004 and had not been tested as of November 29, 2007, a period of more than three years.

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

Pursuant to the provisions of 10 CFR 2.201, Homer City Coal Processing Company 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. 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 14th day of January 2008