

ENCLOSURE

NOTICE OF VIOLATION

Dal-Tex Coal Corporation
Sharples, West Virginia

Docket No. 030-29016
License No. 47-24816-01

During an NRC inspection conducted March 16, 1994, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, the violations are listed below:

10 CFR 71.5(a) requires that a licensee who transports licensed material outside of the confines of its plant or other place of use, or who delivers licensed material to a carrier for transport, comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 170 through 189.

1. 49 CFR 172.200(a) requires, with exceptions not applicable here, that each person who offers a hazardous material for transportation describe the hazardous material on the shipping paper in the manner required by subpart C of 49 CFR Part 172. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

Contrary to the above, as of March 16, 1994, the licensee routinely transported a portable nuclear gauge containing approximately 8 millicuries of Cesium-137 and 40 millicuries of Americium-241/Beryllium and did not possess a shipping paper describing the material.

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

2. 49 CFR 172.702 requires, in part, that hazardous materials licensees train and test employees in the subjects covered in 49 CFR 172.704.

Contrary to the above, as of March 16, 1994, the licensee had not trained employees, who routinely transport a portable nuclear gauge, in the subjects covered in 49 CFR 172.704.

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

Pursuant to the provisions of 10 CFR 2.201, Dal-Tex Coal Corporation is hereby required to submit a written statement or explanation to the Regional Administrator, Region II, with a copy to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

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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. If an adequate reply is not received within the time specified in this Notice, an order or 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.

Dated at Atlanta, Georgia
This 28th day of March, 1994