

Dal-Tex Coal Corporation

*Rt. 17, Post Office Box D
Sharples, West Virginia 25183
Phone: 304-369-0666
Fax: 304-369-6829*

April 12, 1994

Nuclear Regulatory Commission
Regional Administrator
Region II
101 Marietta Street, N.W., Suite 2900
Atlanta, Georgia 30323-0199

Re: Dal-Tex Coal Corporation
Sharples, West Virginia
License No. 47-24816-01
Docket No. 030-29016
NRC Inspection Report No. 47-24816-01/94-01

Dear Sirs:

In response to the items specified on the Notice of Violation dated March 28, 1994 at the above referenced facility, Dal-Tex Coal Corporation has implemented the following procedures to abate/eliminate the conditions cited:

(1) An appropriate bill of lading has been provided to the individual primarily responsible for transporting the gauge with instructions that it is to be stored with the gauge and placed upon the seat in the cab while the gauge is being transported.

(2) The safety director of the licensee is establishing a proper course of training/retesting in order to satisfy criteria established in 49 CFR 172.702. (See Attachment1)

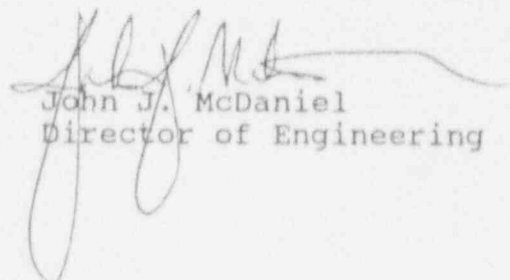
As a temporary measure until completion of training/testing an alternative route to and from the site which will not involve transportation of the gauge on public routes has been outlined and is to be adhered to (See Attachment 2).

9404200095 940412
PDR ADOCK 03029016
C PDR

LEO7
11

Should you have any questions or comments regarding this matter contact me at the above address.

Respectfully,



John J. McDaniel
Director of Engineering

cc: Allen Workman
Rick Dillon
Joe Lane
Document Control Desk, Washington, D.C. 20555
File



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
101 MARIETTA STREET, N.W., SUITE 2900
ATLANTA, GEORGIA 30323-0199

MAR 28 1994

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

Dal-Tex Coal Corporation
ATTN: Allen Workman
President
P. O. Box D
Sharples, West Virginia 25183

Gentlemen:

SUBJECT: NOTICE OF VIOLATION
(NRC INSPECTION REPORT NO. 47-24816-01/94-01)

This refers to the inspection conducted by Mr. M. Fuller of this office on March 16, 1994. The inspection included a review of activities authorized for your Sharples, West Virginia facility. At the conclusion of the inspection, the findings were discussed with Mr. John McDaniel, Director of Engineering and Radiation Protection Officer.

The inspection was an examination of activities conducted under your license with respect to radiation safety and compliance with NRC regulations and the conditions of your license. It included selective examinations of procedures and representative records, interviews with personnel, and direct observations by the inspector.

Based on the results of this inspection, certain of your activities appeared to be in violation of NRC requirements, as specified in the enclosed Notice of Violation (Notice). In addition, the inspector identified activities that violated NRC requirements that will not be subject to enforcement action because the licensee's efforts in identifying and/or correcting the violation meet the criteria specified in Section VII.B of the Enforcement Policy. The non-cited violation is failure to post documents as required by 10 CFR 19.11 and 21.6. These items were discussed with Mr. McDaniel during the meeting at the conclusion of the inspection.

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. 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.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and any reply will be placed in the NRC Public Document Room.

9404110091 2JP

Dal-Tex Coal Corporation

2

MAR 28 1994

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511.

Should you have any questions concerning this letter, please contact us.

Sincerely,



Douglas M. Collins, Chief
Nuclear Materials Safety and
Safeguards Branch
Division of Radiation Safety
and Safeguards

Enclosure:
Notice of Violation

cc w/encl:
State of West Virginia

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).

2404110094-290

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.

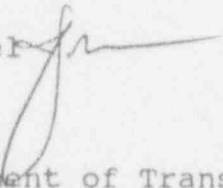
Dated at Atlanta, Georgia
This 28th day of March, 1994

DAL-TEX COAL CORPORATION

MEMORANDUM

TO: Rick Dillon

DATE: April 12, 1994


FROM: John McDaniel  cc: Joe Lane
File

SUBJECT: Department of Transportation
Testing/Training Program
Regarding Transportation of Troxler Density Gauge
Attachment 1

Attached is a copy of a Notice of Violation from the NRC regarding compliance with the DOT training/testing requirements of 49 CFR 172.702 and 49 CFR 172.704. Joe Lane is the individual primarily responsible for transportation of the gauge. We need you to establish a training/testing program which will meet the requirement of 49 CFR 172.702 and 49 CFR 172.704 or obtain the services of a qualified firm to complete the necessary training/testing. Due to planned usage of the gauge, this training/testing needs to be completed sometime before May 1, 1994. Please advise me of the scheduled dates for training/testing so I can plan Joe's activities accordingly.

DAL-TEX COAL CORPORATION

MEMORANDUM

TO: Joe Lane DATE: April 12, 1994
FROM: John McDaniel  cc: Rick Dillon
File
SUBJECT: Transporting of Troxler Nuclear Gauge
Attachment 2

As previously discussed, until an appropriate training and testing program is implemented, at any time the Troxler density gauge is used at the Refuse Area, the route to be followed will be through the Left Fork area or via the existing Uke Road. Both of these routes will not follow any public roads. The necessary training should be completed by May 1, 1994 which will vacate the need to follow the alternate route and should be prior to planned utilization of the gauge for this period. This procedure would be necessary only if an unplanned compaction test is necessary during this period.