

November 21, 1996

Eastern Associated Coal Corporation
Wells/Rocklick Business Unit
ATTN: Mr. Don Rector
Radiation Safety Officer
P. O. Box 29
Wharton, WV 25208

SUBJECT: NRC INSPECTION REPORT NO. 47-24809-01/96-01

Dear Mr. Rector:

Thank you for your letter of October 8, 1996, the clarification provided by Ms. Caroline Henrick by telephone on October 18, 1996, and your fax dated October 25, 1996, in response to our Notice of Violation dated September 13, 1996, concerning activities conducted under NRC License No. 47-24809-01.

In your responses, you deny that violations occurred. After careful consideration of the bases for your denial of the violations, we have concluded, for reasons presented in the enclosure to this letter, that Violation E occurred as stated in the Notice of Violation. However, based on the additional information provided in your responses, Violations A, B, C, and D will be withdrawn.

We are concerned that the information contained in your responses was not available during the onsite inspection and in one location as required by your license. This may be an indicator of inadequate oversight of your program. Normally, record keeping Violations, such as Violation E are not cited with a request for a response. As a result of our concern in this case, we cited this violation and ask that you provide the following: (1) the reason for 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.

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

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

Sincerely,



Bruce S. Mallett, Director
Division of Nuclear Materials Safety

Docket No. 030-28938
License No. 47-24809-01

Enclosure: (See Page 2)

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Enclosure: Evaluation and Conclusion

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(*) See Next Page for Previous Concurrences

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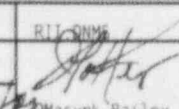
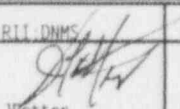
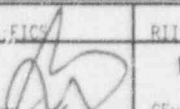
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EVALUATION AND CONCLUSION

On September 13, 1996, a Notice of Violation (Notice) was issued for violations identified during a routine NRC inspection conducted at the licensee's facilities at Wells, Rocklick, and NuEast, in West Virginia. Eastern Associated Coal Corporation responded to the Notice on October 8, 1996. Additional information was provided by Ms. Caroline Henrick by telephone on October 18, 1996, and by fax on October 25, 1996. Eastern Associated Coal contests Violations A through E. NRC's evaluation and conclusion regarding the licensee's response are as follows:

Restatement of Violation A:

Condition 14A of License No. 47-24809-01 specifies that the licensee perform a leak test of its sealed sources every six months.

Contrary to the above, as of August 28, 1996, the licensee was performing a leak test of the sources in the Coalscan gauges annually.

Summary of Licensee's Response:

The licensee contested the violation and provided documentation that showed that leak tests were performed at the required frequency.

NRC Evaluation:

This information was not provided at the time of the inspection in response to the inspector's request. Documentation provided in the licensee's response is accurate and complete. Since the leak tests were performed as required, Violation A is withdrawn.

Restatement of Violation B:

Condition 16 of License No. 47-24809-01 requires the licensee to conduct an inventory of its sealed sources every six months.

Contrary to the above, as of August 28, 1996, the licensee was conducting annual inventories of its Coalscan gauges.

Summary of Licensee's Response:

The licensee contested the violation and provided documentation that showed that inventories were conducted at the proper frequency.

NRC Evaluation:

This information was not provided at the time of inspection in response to the inspector's request. Documentation contained in the licensee's response is accurate and complete. Since the inventories were conducted as required, Violation B is withdrawn.

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Restatement of Violation C:

Condition 20 of License No. 47-24809-01 requires the licensee to test the proper operation of the on/off mechanism of each gauge every six months.

Contrary to the above, as of August 28, 1996, the licensee was performing this test annually.

Summary of Licensee's Response:

The licensee contested the violation and provided documentation that showed that the on/off mechanism was properly tested at the required frequency.

NRC Evaluation:

This information was not presented at the time of the inspection. Documentation contained in the licensee's response was accurate and complete. Since the on/off mechanism was tested as required, Violation C is withdrawn.

Restatement of Violation D:

10 CFR 20.1101(c) states that the licensee shall periodically (at least annually) review the radiation protection program content and implementation.

Contrary to the above, as of August 28, 1996, the licensee has not performed an annual review of the radiation safety program.

Summary of Licensee's Response.

The licensee contests this violation and states that the required review was conducted. No documentation is available to document this review. Discussion with Eastern Associated Coal Corporation's counsel revealed that the Radiation Safety Officer did not understand the inspector's questions regarding this issue at the time of the inspection. The licensee states that these reviews will be documented in the future.

NRC Evaluation:

At the time of the inspection, the Radiation Safety Officer did not indicate that an annual review of the radiation safety program had been conducted. Based on the licensee's statement and written explanation, the NRC concludes that the annual reviews were performed as required, but the reviews were not documented. Violation D is withdrawn.

Restatement of Violation E:

Condition 10D of License No. 47-24809-01 requires the licensee to maintain copies of all required records for the activities authorized by this license at the Wells office in Wharton, WV.

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Contrary to the above, as of August 28, 1996, the licensee did not maintain all required records in this central location. Each place of use had some of the required records.

Summary of Licensee's Response:

The licensee did not dispute the facts of the violation, but did not admit that a violation occurred. The licensee stated that they would review their files to ensure that all appropriate information is contained by October 18, 1996.

NRC Evaluation:

The licensee has not provided a response that details why the violation occurred, corrective actions taken or the date when full compliance will be achieved.

NRC Conclusion:

After review of the information which was not provided at the time of inspection but has subsequently been provided, the NRC staff concludes that violations A, B, C, and D did not occur. Accordingly, they are retracted. Violation E occurred as stated and the information discussed in the evaluation is required.

Enclosure