

EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: Consolidation Coal Co/Emery Deep Mine
Permit #: C/015/015

NOV # N03-39-1-1
Violation # 1 of 1

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation.** Mark and explain each event.

- a. Activity outside the approved permit area.
- b. Injury to the public (public safety).
- c. Damage to property.
- d. Conducting activities without appropriate approvals.
- e. Environmental harm.
- f. Water pollution.
- g. Loss of reclamation/revegetation potential.
- h. Reduced establishment, diverse and effective vegetative cover.
- i. No event occurred as a result of the violation.
- j. Other.

Explanation: Coal fines from the coal stock pile blew on to the land outside the permit area. The end of the permit area is 80-120 feet from the coal stockpile. This took place at the 4th East Portal area. The effected area was approximately 100 ft by 100 ft.

2. Has the even occurred? Yes

If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: It was very likely that this event would occur. The distance from the coal stockpile to the end of the permit area is approximately 80-120 feet. The 4th East Portal area can be windy. The inspector advised the permittee that the close distance of the coal stockpile to the end of the permit area could cause a problem with coal fines entering outside permitted area. This was dicussed prior to mining underground.

3. Did any damage occur as a result of the violation? No

If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: This can be debated, but the inspector feels that there was not a significant amount of coal fines to result in damage. If the process continued, vegetation would most likely be affected.

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).

Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: _____

Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: The permittee knew of the possibility that coal fines could go outside the permit area. This was discussed by the inspector to the permittee prior to mining coal.

If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: _____

Was the operator in violation of a specific permit condition?

Explanation: _____

Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: _____

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: The permittee started cleaning the coal fines prior to the inspector knowing that the coal fines were outside the permit area. The permittee informed the inspector of the event. The permittee did the following prior to informing the inspector: 1) installed drop down chute off the head roller of the belt conveyor, 2) changed the setting to the coal crusher, 3) leaving a coal wall to reduce the possibility of wind born coal fines leaving the disturbed area, and 4) permittee started the process of cleaning up the coal fines outside the permit area. The permittee was advised to wait until the soil was dry. The cleaning of the coal fines in wet and muddy conditions could cause greater harm to the vegetation and soil. It is the inspector's opinion good faith points can be given now and again if the permittee finishes cleaning up the coal fines from outside the permit area prior to the abatement time (March 10, 2003).

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: The permittee had a contractor cleaning the coal fines outside the permit area, prior to the inspector's knowledge of the event.

3. Was the submission of plans prior to physical activity required by this NOV / CO? No If yes, explain.

Explanation: _____

Stephen J. Demczak
Authorized Representative _____
Signature

January 10, 2003
Date