

EVENT VIOLATION INSPECTOR'S STATEMENT

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

NOV # 10048
 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.

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

Explanation: Failure to control and contain noncoal waste in a controlled manner in the designated control structure.

2. Has the event 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: During the complete inspection the noncoal waste was observed in large quantities in the main parking area of the Emery Deep Mine. Noncoal waste was also observed around several access roads throughout the facility.

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: _____

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: _____

- 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: Failure to control and contain noncoal waste in a controlled manner in the designated control structure.

- 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 abatement date of March 16, 2010 was given. The violation was issued on March 11, 2010. Notified that the noncoal waste was gathered and properly disposed of on the afternoon of March 11, 2010. March 16, 2010 @ 10:00 am the mine site was still out of compliance. It appeared that the noncoal waste in the main parking area was new. Noncoal waste was also noticed at this time along the main access road and outside of the berm identifying the stream buffer zone. The operator/permittee was given approximately four (4) hours, until 2:00 pm, to bring the mine site into compliance and avoid a Failure To Abate Cessation Order (FTACO). The mine site was found to be in compliance at 2:00 pm and the violation was then terminated.

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

Explanation: Yes, mine personnel and storage containers.

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

Explanation: _____

Karl R. Houstkeeper
Authorized Representative

Karl R. Houstkeeper
Signature

March 17, 2010
Date