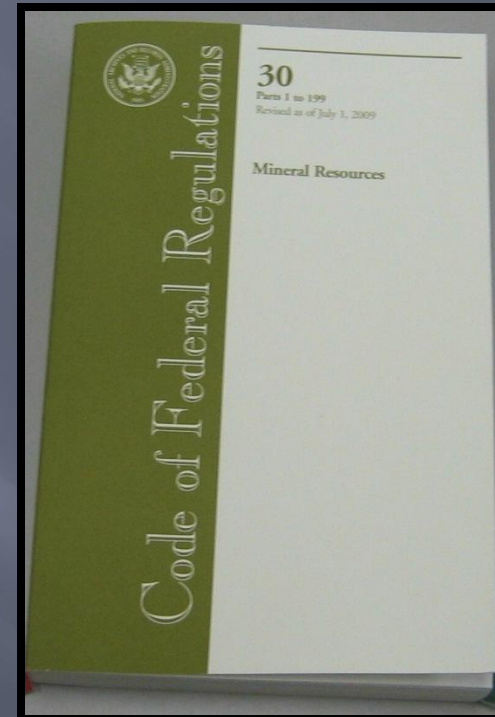


MSHA CITATION REVIEW 2011 VIRGINIA CITATIONS

DMME
Division of Mineral Mining
2012

Virginia Citation Totals

- ▣ Totals by CFR 30 Part:
 - Part 41 – 5
 - Part 46 – 50
 - Part 47 – 45
 - Part 48 – 1
 - Part 50 – 54
 - Part 56 – 840
 - Part – 57 – 58
 - Part 62 – 6
- ▣ 1059 total citations
- ▣ There were 11 orders issued in Virginia.



Elements Of Our Review

- ▣ In the vast majority of cases these citations would have been written as violations by DMM inspectors.
 - We will compare the MSHA standard with the Virginia regulation or law.
 - We will review the responsibility of the certified foremen, miners, and mine management.
- ▣ Independent contractors at risk on mine sites are a key issue.
 - We will identify citations issued to contractors and the severity.

Limits Of The Review

- ▣ We will focus most of our attention on violations of health, safety, and training standards at surface operations; Parts 46, 47, 56, and 62.
- ▣ In general, we will review violations of standards that resulted in the issuance of 3 or more citations statewide.
 - The exception to this will be those of special interest, citations marked S&S, and citations issued to contractors.

Part 41

- ▣ 41.10, 41.12, 41.20:
 - 5 citations covering notifying MSHA of the opening of mine operations and changes of ownership or “legal identity”.
- ▣ Virginia requires updating of this information in it's permitting and licensing of each mine site.

Part 46 (Training)

- ▣ 50 violations total:
 - 46.11 – 6 violations covering failure to provide hazard awareness training to various persons.
 - ▣ All of these written as S&S.
 - 46.12 – 4 violations for failure of the mine operator to notify independent contractors of their responsibility to comply with MSHA requirements; training, and etc.
 - ▣ One of these written as S&S.
 - 46.3 – 18 violations; no training plans (13) or unapproved/unacceptable plans (5).
 - ▣ 3 written as S&S to contractors.
 - ▣ 15 of 18 written to contractors.

Part 46 (Training)

- 46.5 – 7 violations for not providing new miner training (5) or inadequate training (2).
 - 6 written S&S including 3 to contractors.
 - 4 of the total written to contractors.
- 46.7 – 3 violations for not providing new task training.
 - 2 written as S&S, 1 to a contractor.
 - 2 of the total to contractors.
- 46.8 – 5 violations for not providing annual refresher training within 12 months of previous training.
 - 3 written to contractors.
- 46.9 – 7 violations for no or improper training records.
 - 4 written to contractors.

Virginia Laws & Regs. & 46

- ▣ Virginia law, **45.1-161.292:73**, requires training plans just as Part 46 does. It also requires they be available for review (written). The law does not have the specific details regarding plans and records that Part 46 has.
- ▣ Virginia regulation, **4 VAC 25-40-100**, requires task training for new and reassigned miners that must include a review of state regulations and company rules that may apply to the task. It also requires records of training.

Part 47 (HazCom)

- ▣ 1 contractor was cited for not having a written HazCom program.
 - Virginia laws and regulations do not require a specific, written HazCom program, but most elements are generally covered in our regulations.
- ▣ 47.41 – 22 total violations for no container labels (16) or for damaged / unreadable labels (6).
 - 4 of these were issued to contractors.
 - 4 VAC 25-40-2570 – requires appropriate labeling.
- ▣ 47.42 – 16 total citations for labels not containing appropriate hazard warnings (14) and for not being legible, accurate, or prominently displayed (2).
 - 4 VAC 25-40-2570 – All specific requirements in 47.42 would fall under “appropriate” labeling as required in this regulation.

Part 47 (cont.)

- ▣ 47.44 – 6 citation issued for not labeling temporary containers in circumstances requiring it.
 - 1 of these was issued to a contractor.
 - 4 VAC 25-40-2570 – Once again, the requirements of 47.44 would be covered under “appropriate” labeling.

Part 50 (Reporting)

- ▣ 50.10 – 2 citations for failing to report accidents to MSHA within 15 minutes.
 - 4 VAC 25-40-50 – Requires reporting by the “quickest available means”. Virginia law requires reporting be done “promptly”.
- ▣ 50.30 – 50 violations for failing to send in quarterly reports on mine production and man-hours.
 - Virginia law requires this reporting be made to DMM annually.

Part 56 (Procedures)

- ▣ 56.1000 – 4 citations for failing to report the opening or closing of a mine site.
 - Virginia law, 45.1-161.292:36, requires reporting surface mine closures of 60 days or longer at least 10 days prior to the closure. Notice of opening or reopening a mine is required at least 10 days prior as well.

Part 56 (Travelways)

- ▣ 56.11001 – 22 issued for failure to maintain safe access to all work places.
 - 12 of these were S&S including 1 to a contractor.
 - 4 VAC 25-40-1810 – requires safe access be provided and maintained to all work locations.
- ▣ 56.11002 – 4 issued for not providing or maintaining adequate handrails or toe-board where required.
 - 1 of these was marked S&S.
 - 4 VAC 25-40-1820 – Identical language as 56.11002.
- ▣ 56.11012 – 7 issued for not providing protection for openings near travelways through which persons might fall; railings, barriers, covers, or adequate warning signals.
 - 3 of these were S&S.
 - 4 VAC 25-40-1920 – Contains identical language as 56.11012.

Part 56 (Electricity)

- ▣ **56.12002** – 3 issued for not providing adequate switches or controls for electrical equipment or proper installation.
 - 1 of these was S&S.
 - **4 VAC 25-40-2030** – Effectively the same language as 56.12002.
- ▣ **56.12004** – 67 citations issued for not providing electrical conductors (wires, cables) with adequate capacity and size or not adequately protecting them from mechanical damage.
 - 18 of these were S&S.
 - 3 of the total were issued to contractors.
 - **4 VAC 25-40-2050** – Effectively the same language as 56.12004.

Part 56 (Electricity)

- ▣ 56.12006 – 11 citations issued for failure to provide electrical distribution boxes with proper disconnects for each branch circuit or proper labeling to show which circuit is controlled by each device.
 - 1 of these was S&S.
 - 4 VAC 25-40-2070 – Requires distribution boxes to have disconnect switches.
 - 4 VAC 25-40-2160 – Requires labeling of switches to indicate which units they control.

Part 56 (Electricity)

- ▣ 56.12008 – 13 citations for not providing wires and cables with proper insulation (protection) including adequate fittings and bushings as they pass in or out of electrical compartments, splice boxes, motor frames, or other metal frames.
 - 1 of these was S&S.
 - 2 of the total were issued to contractors.
 - 4 VAC 25-40-2090 – Requires adequate insulation for wires and cables passing in or out of electrical compartments.

Part 56 (Electricity)

- ▣ **56.12013** – 5 issued for permanent splices or repairs to cables not being; as mechanically strong or conductive as the original (as near as possible), insulated and sealed as the original, or protected from damage as nearly as possible to the original.
 - 2 of these were S&S.
 - **4 VAC 25-40-2120** – Has effectively the same language as 56.12013.
- ▣ **56.12016** – 4 issued for failure to lockout and tag electrically powered equipment prior to performing mechanical work.
 - 2 of these were S&S.
 - **4 VAC 25-40-2140** – Has effectively the same language as 56.12016.

Part 56 (Electricity)

- ▣ 56.12018 – 20 citations issued for principal power switches not being labeled to show which units they control.
 - 4 VAC 25-40-2160 – Has identical language to this standard.
- ▣ 56.12020 – 22 issued for not providing dry wooden platforms, insulating mats, other nonconductive material, or bonded metal plates at all switchgear.
 - 3 of these were S&S.
 - 2 of the total were issued to contractors.
 - 4 VAC 25-40-2180 – Has language identical to 56.12020.

Part 56 (Electricity)

- ▣ 56.12021 – 5 issued for not posting suitable danger signs at all major electrical installations.
 - 4 VAC 25-40-2190 – Language is identical to 56.12021.
- ▣ 56.12025 – 16 issued for not providing proper grounding to all metal enclosing/encasing electrical circuits.
 - 1 of these was S&S.
 - 4 VAC 25-40-2220 – covers this, but includes specifics as to how the grounding is to be done.

Part 56 (Electricity)

- ▣ 56.12028 – 29 citations issued for not performing and/or documenting testing of the continuity and resistance of grounding systems either after installation, repair, or modification or annually.
 - 3 of these were S&S.
 - 2 of the total were issued to contractors.
 - 4 VAC 25-40-2250 – Has effectively the same language as 56.12028, but with more specifics.
- ▣ 56.12030 – 19 issued for not correcting potentially dangerous conditions prior to energizing equipment or circuits.
 - 7 of these were S&S including 1 issued to a contractor.
 - 4 VAC 25-40-2270 – Has identical language as 56.12030, but further requires inspection by a competent person as often as needed to ensure safe operating conditions.

Part 56 (Electricity)

- ▣ 56.12032 – 24 issued for inspection and cover plates on equipment and junction boxes not being in place.
 - 3 of these were marked S&S.
 - 4 VAC 25-40-2290 – Has identical language to 56.12030.
- ▣ 56.12034 – 4 issued for portable extension lights and other lights not being guarded as required.
 - 4 VAC 25-40-2310 – Effectively the same language as 56.12034.

Part 56 (Compressed Air)

- ▣ 56.13011 – 3 citations for air receiver tanks not being equipped with working pressure relief valves or gauges.
 - 4 VAC 25-40-1120 – Requires relief valves, pressure gauges, and drains.
- ▣ 56.13015 -3 citations for compressed air receivers not being inspected or records kept as required.
 - 4 VAC 25-40-1100 – Has similar language and requirements as 56.13015.
- ▣ 56.13021 – 5 issued for not having safety chains or locking devices on hose connections of $\frac{3}{4}$ inch inside diameter and larger.
 - 1 of these was S&S.
 - 1 of the total was issued to a contractor.
 - 4 VAC 25-40-1210 – Has identical language except that 56.13021 begins with, “except where automatic shut-off valves are used”. This regulation does not include that exception.

Part 56 (Machinery & Equipment)

- ▣ 56.14100 – 112 citations issued for; pre-op inspections not being done on mobile equipment (17), defects on equipment, machinery, and tools not being corrected in a timely manner (94), and equipment with hazardous defects not taken out of service and tagged (1).
 - 23 of these were S&S including 5 issued to contractors.
 - 16 of the total number were issued to contractors.
 - 4 VAC 25-40-145 – requires pre-op inspection by the operator, the operator must report defects to the certified foreman and hazardous defects must be repaired prior to the equipment being used.

Part 56 (Machinery & Equipment)

- ▣ 56.14101 – 55 citations issued for; service brakes (foot) on mobile equipment not capable of stopping and holding the equipment with its normal load on the steepest grade it travels (2), parking brakes (emergency) not capable of stopping and holding the equipment (43), and all brake systems not being maintained in functional condition (10).
 - 21 of these were S&S including 5 issued to contractors.
 - 9 of the total number were issued to contractors.
 - 4 VAC 25-40-1320, 1330 – Have effectively the same language covering service brakes and emergency brakes.
 - 4 VAC 25-40-360 – Requires equipment and machinery to be maintained according to the manufacturer's specifications.

Part 56 (Machinery & Equipment)

- ▣ 56.14107 – 39 issued for moving machinery parts not being guarded to protect persons from contact (within 7 feet).
 - 20 of these were S&S including 1 issued to a contractor.
 - 3 of the total number were issued to contractors.
 - 4 VAC 25-40-2680 – Requires guarding of moving machinery parts within 7-foot reach against accidental contact.
 - 4 VAC 25-40-2700 – Requires conveyor drives, head, tail, and take-up pulleys within 7-foot reach to be guarded to prevent reaching over, under, or behind and contacting parts (intentional).

Part 56 (Machinery & Equipment)

- ▣ 56.14109 – 5 issued for conveyors next to travelways not being provided with emergency stop devices or railings positioned to prevent persons from falling on or against the conveyor.
 - 3 of these were marked S&S.
 - 4 VAC 25-40-2700 – Contains similar language with the same requirements as 56.14109.
- ▣ 56.14110 – 7 issued for shields, guards, or other devices not being provided where flying or falling material posed a hazard to people.
 - 2 of these were S&S.
 - 1 of the total number was issued to a contractor.
 - 4 VAC 25-40-2760 – Requires guards or shields where flying or falling material presents a hazard.

Part 56 (Machinery & Equipment)

- ▣ 56.14112 – 33 issued for guards; not being of substantial/adequate construction (17), themselves creating a hazard (2), not being securely in place while machinery was operating (14).
 - 14 were marked S&S.
 - 4 VAC 25-40-2750 – Requires guards to be sufficiently strong and maintained to prevent contact with moving parts.
 - 4 VAC 25-40-2740 – Requires guards to be in place while machinery is being operated.
 - No Virginia regulation contains wording specifically requiring guards not to present a hazard themselves, but this is covered by more general language in several areas.

Part 56 (Machinery & Equipment)

- ▣ 56.14130 – 14 issued for ROPS structures; not having a proper label (13), or not being maintained in a condition that meets performance requirements (1).
 - The citation for improper condition was S&S.
 - 3 of the labeling citations were issued to contractors.
 - 4 VAC 25-40-1370 – Requires heavy duty mobile equipment be equipped with acceptable roll-over protection structures. “Acceptable”, would include a proper label and good condition.
 - 4 VAC 25-40-360 – Requires equipment be maintained to manufacturer’s specification.

Part 56 (Machinery & Equipment)

- ▣ 56.14131 – 5 issued for seat belts; not being provided or worn in haul trucks (1), or seat belts not being maintain or replaced when necessary (4).
 - 2 of these were S&S including 1 issued to a contractor.
 - 4 VAC 25-40-1370, 360 – Requires seat belts be provided and used in heavy duty mobile equipment. Equipment must be maintained to manufacturer's specifications.
- ▣ 56.14132 – 49 citations issued for; horns not working (33), backup alarms not working (10), or alarms not audible above surrounding noise (6).
 - 14 of these were S&S including 3 issued to contractors.
 - 10 of the total number were issued to contractors.
 - 4 VAC 25-40-1570 – Requires audible warning devices (horns).
 - 4 VAC 25-40-1580 – Requires backup alarms and that they be audible above surrounding noise.

Part 56 (Machinery & Equipment)

- ▣ 56.14201 – 5 citations for; not visually checking the entire length of a conveyor visible from the starting switch prior to start up (1), not providing or using a visual or audible start-up warning system when the conveyor is not visible from the start switch (4).
 - None S&S and none to contractors.
 - 4 VAC 25-40-310 – Requires ensuring that persons are in the clear prior to start-up and requires an audible warning if the equipment is not visible from the switch.
- ▣ 56.14205 – 3 citations issued for using machinery, equipment or tools beyond the design capacity intended by the manufacturer in a way that may create a hazard to persons.
 - All 3 were marked S&S.
 - 4 VAC 25-40-330 – States machinery and equipment shall be used for the purpose and within the capacity for which they were intended and designed.

Part 56 (Machinery & Equipment)

- ▣ 56.14207 – 22 citations issued for improper parking of unattended mobile equipment; controls must be in the park position and the parking brake set, if provided. If on a grade, the wheels or tracks must be chocked or turned into a bank.
 - 9 of these were S&S including 3 to contractors.
 - 6 of the total number were issued to contractors.
 - 4 VAC 25-40-1510 – Has similar language with the same intent except in regards to blocking or turning into a bank; this is to be done unless the lowering of the bucket or blade to the ground prevents movement.
- ▣ 56.14211 – 1 citation, marked S&S, issued to a contractor for working on top of, under, or from mobile equipment in a raised position without blocking or mechanically securing it to prevent it from falling or rolling.
 - 4 VAC 25-40-1680 – States mobile equipment shall not be worked on or from in a raised position unless the equipment is specifically designed to lift persons. Working under equipment is covered elsewhere.

Part 56 (Personal Protection)

- ▣ 56.15001 – 3 issued for not providing adequate first aid materials, including stretchers and blankets, convenient to all work areas or water or neutralizing agents where corrosive chemicals or other harmful substances are stored, handled, or used.
 - 4 VAC 25-40-1690 – Has similar language in requiring first aid materials, but specifies “adequate for the number of employees”.
 - 4 VAC 25-40-2520 – Has identical language referring to water and neutralizing agents.

Part 56 (Personal Protection)

- ▣ 56.15003 – 2 S&S citations issued, 1 to a contractor, for persons not wearing suitable footwear.
 - 4 VAC 25-40-1720 – Has identical language.
- ▣ 56.15004 – 1 S&S citation issued to a contractor for persons not wearing safety glasses, goggles, or face shields where there is a hazard to unprotected eyes.
 - 4 VAC 25-40-1730 – Has identical language.
- ▣ 56.15005 – 8 S&S citations issued including 1 to a contractor for persons not wearing safety belts and lines where required.
 - 4 VAC 25-40-1740 – Requires safety harnesses and lines.
 - 4 VAC 25-40-2550 – Requires attended harness and line in confined spaces.
- ▣ 56.15006 – 2 S&S citations issued for not providing special protective equipment or clothing as needed.
 - 4 VAC 25-40-2530 – has language with the same intent.

Part 56 (Materials Storage/Handling)

- ▣ 56.16005 – 4 citations issued for not safely securing compressed and liquid gas cylinders.
 - 1 of these was issued to a contractor.
 - 4 VAC 25-40-1250 – Requires cylinders be safely secured in an upright position.
- ▣ 56.16006 – 6 citations issued for not protecting valves on cylinders with covers while transported or stored, or by a safe location when in use.
 - 4 VAC 25-40-1260 – Requires cover for valves and gauges when stored and if there is a danger of falling material when in use.
- ▣ 56.16009 – 1 S&S citation issued for persons not staying clear of suspended loads.
 - 4 VAC 25-40-2600 – Identical language.

Part 56 (Work Place Examination)

- ▣ 56.18002 – 11 citations for not having a competent person perform a work place examination at least once during each shift (10), or keeping a record of that examination (1).
 - 6 of these were S&S citations.
 - 4 VAC 25-40-130 – Requires the certified foreman to examine active workings at the beginning of each shift and a record must be kept.
- ▣ 56.18010 – 7 citations issued for not having someone available trained in first aid and artificial respiration.
 - 4 VAC 25-40-140 – Requires the certified foreman to possess a valid first aid certificate. There is no language concerning artificial respiration, however, first aid training offered by DMM includes CPR.

Part 56 (Misc.)

- ▣ 56.20003 – 21 citations issued for not keeping workplaces, passageways, storerooms, and service rooms clean and orderly or keeping work area floors clean and dry or providing drainage and raised platforms in wet conditions.
 - 11 marked S&S.
 - 1 of the total issued to a contractor.
 - 4 VAC 25-40-210 – Requires all active workings, structures, and travelways be kept clean and orderly. Other regulations address slippery and obstructed walkways/travelways.

Part 56 (Ground Control)

- ▣ 56.3130 – 1 S&S citation issued for not maintaining wall, bank and slope stability where people work or travel.
 - 4 VAC 25-40-390 – Requires ground, wall, bench, and slope stability, including benching and sloping to the angle of repose as necessary.
- ▣ 56.3200 – 8 citations for not posting and barricading to warn against and impede entry to areas where hazardous ground conditions exist prior to being taken down or supported.
 - 6 marked S&S including 1 to a contractor.
 - 4 VAC 25-40-430 – Requires hazardous conditions to be corrected promptly, or the area shall be barricaded and posted with warning signs and no person shall work under or near these conditions.

Part 56 (Ground Control)

- ▣ 56.3401 – 3 S&S citations issued for not having experienced persons examine ground conditions prior to work beginning in an area, or after blasting, or as conditions warrant during the shift.
 - 1 of these S&S citations was issued to a contractor.
 - 4 VAC 25-40-450 – Requires a certified foreman examine active workings at least at the beginning of the shift and after blasting. Any unsafe conditions found shall be corrected prior to employees starting or resuming work.
 - 4 VAC 25-40-460 – Requires all personnel to examine their work area prior to starting work and frequently thereafter. Unsafe conditions are to be corrected or reported to the certified foreman.

Part 56 (Fire Prevention)

- ▣ 56.4011 – 3 citations issued for not de-energizing or isolating abandoned electric circuits so that they cannot be energized inadvertently.
 - **National Electrical Code** – Virginia regulations do not address this directly, but it is found in the NEC which is a part of the Virginia regulations by reference.
- ▣ 56.4101 – 8 citations for not posting readily visible signs prohibiting smoking or open flames where a fire or explosion hazard exists.
 - 1 of these was issued to a contractor.
 - **4 VAC 25-40-510,540,590** – These regulations all include the posting of warning signs where fire and explosion hazards exist.

Part 56 (Fire Prevention)

- ▣ 56.4200 – 7 citations for not having onsite firefighting equipment (1), or equipment of a type, size, and quantity required (5), or equipment strategically located, readily accessible, plainly marked, and in fire ready condition (1).
 - 4 VAC 25-40-610 – Includes the requirements found in 56.4200.
- ▣ 56.4201 – 25 citations issued for not visually inspecting fire extinguishers at least monthly (15), or the required full inspection at least every 12 months (10).
 - 4 of the total citations were issued to contractors.
 - 4 VAC 25-40-610 – Requires the at least monthly inspection and requires extinguishers to be maintained in fire ready condition, “as specified by the manufacturer”. This normally includes a full inspection every 12 months.

Part 56 (Fire Prevention)

- ▣ 56.4203 – 6 citations for not promptly recharging or replacing an extinguisher after a discharge.
 - 4 of these were issued to contractors.
 - 4 VAC 25-40-610 – Though not specific, the language in this regulation requires prompt recharge or replacement.
- ▣ 56.4230 – 8 citations for not having an extinguisher on mobile equipment when required (1), or extinguishers/suppression systems not of a proper type and size or readily accessible (7).
 - 3 of these were issued to contractors.
 - 4 VAC 25-40-610 – Requires firefighting equipment to be of suitable type and size.
 - 4 VAC 25-40-670.A – Requires an extinguisher to be on the equipment when the operator's escape might be hindered.

Part 56 (Fire Prevention)

- ▣ 56.4603 – 3 citations issued for oxygen and acetylene tank valves not being closed when unattended.
 - 4 VAC 25-40-1240 – Requires valves to be closed when not in use.

Part 56 (Air Quality)

- ▣ 56.5005 – 1 S&S citation for temporary exposure to airborne contaminants without using acceptable respiratory protective equipment.
 - 4 VAC 25-40-720.2 – Contains the same requirement.

Part 56 (Explosives)

- ▣ 56.6132 – 1 citation issued for a storage magazine not being properly bonded/grounded.
 - 4 VAC 25-40-780.C,5 – Requires metal structures to be electrically bonded and grounded.

Part 56 (Loading, Hauling)

- ▣ 56.9101 – 1 S&S citation for an operator of mobile equipment not maintaining control of the equipment or operating at speeds inconsistent with conditions or the type of equipment.
 - 4 VAC 25-40-1390,1430 – Contain these requirements.
- ▣ 56.9300 – 25 citations issued for not providing berms or guardrails where there is a danger of overturning (19), or berms/guards not being mid-axle high (4), or not meeting the requirements for infrequently traveled roadways (2).
 - 15 of the total number were marked S&S.
 - 4 VAC 25-40-1410 – States; “Berms or guards capable of restraining the largest vehicle used in the area shall be provided on the outer bank of elevated roadways.” This language goes beyond “mid-axle height” and there is no exception for infrequently traveled roads used only by service or maintenance vehicles.

Part 56 (Loading, Hauling)

- ▣ 56.9301 – 2 S&S citations issued for not providing berms, bumper blocks, or other devices at dumping locations where there is a hazard of over-travel or over-turning.
 - 4 VAC 25-40-1620 – Has similar language and requires the same precautions.
- ▣ 56.9304 – 2 S&S citations issued for not visually inspecting dumping locations prior to work commencing or as ground conditions warrant.
 - 4 VAC 25-40-450, 460 – 450 requires the certified foreman to inspect at the beginning of the shift and 460 requires all personnel to inspect prior to starting work and frequently thereafter.

Part 56 (Loading, Hauling)

- ▣ 56.9315 – 1 S&S citation for not controlling dust when a hazard is created due to poor visibility.
 - 4 VAC 25-40-1400 – Requires dust control when visibility is significantly affected.

Part 57 (Underground)

- ▣ **59 total citations issued:**
 - 24 of the total were marked S&S including 2 to contractors.
 - 5 of the total were issued to contractors.
 - DMM performs safety and health inspections at underground mineral mine operations.
 - ▣ DMM issued 10 violations to these operations during 2011.
 - Some of the MSHA citations dealt with issues not specifically addressed in Virginia regulations.

Part 62 (Noise Exposure)

- ▣ 62.120 – 1 citation for not enrolling miners in a Hearing Conservation Program upon exceeding the action level.
- ▣ 62.130 – 3 citations issued to contractors for not taking required action when miners exposure exceeds the permissible exposure level.
- ▣ 62.174 – 2 citations issued for not taking required actions when a standard threshold shift is detected.
 - 4 VAC 25-40-770 – Requires adherence to MSHA limits, the use of administrative and engineering controls, and requires miners be provided hearing protection upon request.

Orders

▣ 11 orders issued in Virginia:

- 5 (107a) Imminent Danger situations:
 - ▣ 3 persons in danger of falling and not wearing fall protection.
 - 1 of these was issued to a contractor!
 - ▣ 1 involved inadequate roadway berms.
 - ▣ 1 where a person (or persons) was in danger due to unsafe ground conditions.
- 4 (103k) to secure an accident area until investigated:
 - ▣ 2 involved deaths determined to be non-mine related.
 - ▣ 1 involved injuries determined to be non-mine related.
 - ▣ 1 was an entrapment that did not result in serious personal injury.
- 2 (104b - withdrawal) for failure to correct deficiencies in training plans and task training records as specified in 104a citations.
 - ▣ These were issued to a contractor!

MSHA Orders vs. DMM Closure Orders

▣ **Imminent Danger:**

- DMM mine inspectors will issue a closure order on any mine site, MSHA inspected or not, if they see a circumstance they consider an imminent danger.
- It is highly likely that the conditions resulting in the 107a orders in 2011 would have resulted in DMM closure orders had DMM inspectors been present.

▣ **Securing Accident Scenes:**

- Depending on circumstances, DMM inspectors may issue a closure order to preserve an accident scene.
- Closure orders were not issued in the 2011 incidents.

▣ **Withdrawals – Failure to Correct:**

- DMM inspectors may issue closure orders if NOV's have not been complied with in the allotted time.
- The 104b orders issued dealt with training plan and record keeping issues most likely specific to MSHA standards. It is unlikely that DMM violations or orders would have been issued.

Contractor Issues

- ▣ Contractors were issued 124 citations or almost 12% of the total.
 - 109 of these were issued for violations of Part 46 (28) and Part 56 (81).
 - ▣ This accounts for 56% of the total violations issued under Part 46 and 9.6% of those under Part 56.
 - Just over 28% of the citations were marked S&S.
 - ▣ 32% of those issued under Part 56 were S&S.
 - ▣ 25% of those issued under Part 46 were S&S.
- ▣ Conclusions:
 - Increased effort needs to be made to ensure that contractors understand their responsibilities on mine sites.
 - ▣ Adequate training plans and carrying out proper training are key issues.

Issues For Mine Operators

- ▣ Virginia law requires mine operators to ensure that state laws and regulations are complied with at their sites. This includes responsibility for contractors working on the site. This also includes having state certified personnel performing the work at their sites. The law further requires them to cooperate with the certified personnel in carrying out their duties as prescribed by the laws and regulations.
- ▣ Serious, willful violations may result in the revocation of their license to operate a mine.

Issues For Certified Foremen

- ▣ The vast majority of citations issued by MSHA on Virginia mine sites reflect violations of Virginia laws and regulations.
- ▣ It is the legal responsibility of the certified foreman to ensure that activities under their supervision are done in accordance with Virginia laws and regulations.
- ▣ In those instances where Virginia laws and regulations are more stringent than Federal standards, the Virginia law or regulation must be complied with.
- ▣ Serious, willful violations may result in the revocation of the foreman's certification.

Issues For Miners

- ▣ In Virginia, each individual miner is responsible for carrying out their duties in compliance with the state laws and regulations that apply to the tasks they perform. This is why new miners must receive General Mineral Miner (GMM) training and certification. New or reassigned miners must be trained in the state safety regulations that apply to the new task along with specific task training.
- ▣ Serious, willful violations may result in the GMM certification being revoked.

In Conclusion

- ▣ If everyone working at a mine site fulfills their duties according to the laws and regulations, obviously, there will be fewer issues for federal or state inspectors to take action on. There will also be fewer accidents and injuries.
- ▣ Key duties to carry out:
 - Properly performed beginning of shift inspections.
 - Properly performed pre-operational inspections and reporting issues found.
 - Miners repeatedly inspecting their work area during the shift and reporting issues found.
 - Adequate and timely correction of all hazards found.
 - Ensuring that work procedures address all possible hazards.