



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Labor and Industry/Safety and Health Codes Board
Virginia Administrative Code (VAC) citation	16VAC25-90-1910.135, Head Protection, 1910.135 (General Industry); 16VAC25-100-1915.155, Head Protection, 1915.155 (Shipyard Employment); 16VAC25-120-1917.93, Head Protection, 1917.93 (Marine Terminals); 16VAC25-130-1918.103, Head Protection, 1918.103 (Longshoring); and 16VAC25-175-1926.100, Head Protection, 1926.100 (Construction)
Regulation title	Head Protection (Parts 1910, 1915, 1917, 1918, and 1926)
Action title	Updating OSHA Standards Based on National Consensus Standards for Head Protection; Direct Final Rule for Multiple Standards; and Correction to Direct Final Rule
Final agency action date	September 12, 2012
Document preparation date	September 17, 2012

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

On June 22, 2012, federal OSHA issued this Direct Final Rule to revise the personal protective equipment (PPE) sections of its General Industry, Shipyard Employment, Longshoring, and Marine Terminals standards regarding requirements for head protection, along with an identical proposed rule [77 FR 37617]. OSHA updated the references in §§1910.135(b)(1), 1915.155(b)(1), 1917.93(b)(1), 1918.103(b)(1) to recognize the 2009 edition of the American National Standard for Industrial Head Protection (ANSI Z89.1). The provisions in the 2009 edition permit optional testing for helmets worn in the backwards position (“reverse wearing”), optional testing for helmets at colder temperatures than provided in previous editions, and optional testing for the high-visibility coloring of helmets.

Additionally, changes in the 2009 edition include: (1) removing the definition of “cap” and “hat” and inserts the definitions of “manufacturer” and “test plaque” in the 2009 edition; (2) permitting the testing facility to determine an appropriate size of the headform if the manufacturer did not specify the size; (3) requiring orientation of test samples in the normal wearing position when conducting various test procedures; and (4) removing vertical guard rails from the lists of necessary components for specified test equipment.

The 2009 revision to the General Industry and Maritime Industry personal protective equipment standards, however, did not address the construction standards requiring personal protective equipment. Therefore, the construction standards at §1926.100 (b) and (c) still required compliance with the older ANSI Z89.1-1969 and ANSI Z89.2-1971, respectively.

To bring the construction standard up-to-date and to ensure consistency across all of its standards, federal OSHA amended §1926.100 to permit compliance with ANSI Z89.1-1969 and ANSI Z89.2-1971, which set forth requirements regarding different types of helmets now addressed in Z89.1, and replaced these outdated head protection references with the same three most recent editions of ANSI Z89.1, referenced in the general industry and maritime industry standards: ANSI Z89.1-1997, ANSI Z89.1-2003, or ANSI Z89.1-2009.

The 2009 edition defines Type I and Type II helmets by the area of the head to which the helmets afford protection, rather than by whether the helmets have a brim. It also renames the classes of helmets tested for protection against electrical hazards (i.e., classes G, E, and C instead of A, B, and C), although it still bases helmet classification on the capacity of the helmet to protect employees from electrical hazards. In addition, the 2009 edition of ANSI Z89.1 eliminates a fourth class of helmets used in fire fighting. Many requirements included in the 1969 and 1971 editions, such as requirements specifying the type of material manufacturers must use when making different components and specifications regarding helmet accessories, have been eliminated in the 2009 edition. Most importantly, ANSI revised the performance requirements and test methods. The 2009 edition includes fundamental updates such as more and different types of test methods, and the use of different equipment for performing these test methods.

Additionally, on July 23, 2012, federal OSHA published a correction to the Direct Final Rule for Updating OSHA Construction Standards Based on National Consensus Standards; Head Protection (77 FR 42988). In this correction to the Direct Final Rule, OSHA corrected instruction number 16 of the Direct Final Rule (77 FR 37600) with respect to the Construction Industry head protection standards to eliminate confusion resulting from a drafting error in §1926.100. The original instruction number 16 stated that §1926.100 was amended by adding paragraph (b)(1) through (b)(3) and removed paragraph (c). The corrected instruction number 16 states that §1926.100 was amended by removing paragraph (c) and revising paragraph (b).

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On September 12, 2012, the Safety and Health Codes Board adopted federal OSHA's Direct Final Rule for Updating OSHA Standards for Head Protection and the Correction to the Direct Final Rule, as published in 77 FR 37587 on June 22, 2012, and in 77 FR 42988 on July 23, 2012, respectively, with an effective date of January 1, 2013.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

These regulatory actions will have no impact on the institution of the family and family stability.

To access the Direct Final Rule and Corrections to the Direct Final Rule Updating OSHA Standards Based on National Consensus Standards for Head Protection, please refer to:

http://www.osha.gov/FedReg_osha_pdf/FED20120622A.pdf

http://www.osha.gov/FedReg_osha_pdf/FED20120723A.pdf

**Updating OSHA Standards Based on National Consensus Standards for Head Protection;
Direct Final Rule for Multiple Standards; and
Correction to Direct Final Rule**

As Adopted by the
Safety and Health Codes Board

Date: September 12, 2012



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: January 1, 2013

16VAC25-90-1910.135, Head Protection, §1910.135 (General Industry);
16VAC25-100-1915.155, Head Protection, §1915.155 (Shipyard Employment);
16VAC25-120-1917.93, Head Protection, §1917.93 (Marine Terminals);
16VAC25-130-1918.103, Head Protection, §1918.103 (Longshoring); and
16VAC25-175-1926.100, Head Protection, §1926.100 (Construction)

When the regulations, as set forth in the Update of OSHA Standards Based on the National Consensus Standards for Head Protection; Direct Final Rule for Multiple Standards; and Correction to Direct Final Rule, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and
Industry

Agency

Department

September 20, 2012

January 1, 2013

Amendments to Standards

For the reasons stated above in the preamble, the Occupational Safety and Health Administration is amending 29 CFR parts 1910, 1915, 1917, 1918, and 1926 as follows:

PART 1910—[AMENDED]

Subpart A—[Amended]

■ 3. Amend § 1910.135 by revising paragraph (b)(1) to read as follows:

§ 1910.135 Head protection.

* * * * *

(b) *Criteria for head protection.* (1) Head protection must comply with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, “American National Standard for Industrial Head Protection,” incorporated by reference in § 1910.6;

(ii) American National Standards Institute (ANSI) Z89.1–2003, “American National Standard for Industrial Head Protection,” incorporated by reference in § 1910.6; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, “American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,” incorporated by reference in § 1910.6.

* * * * *

PART 1915—[AMENDED]

Subpart A—[Amended]

(iii) American National Standards Institute (ANSI) Z89.1-1997, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements," incorporated by reference in § 1917.3.
* * * * *

PART 1918—[AMENDED]

■ 6. Amend § 1915.155 by revising paragraph (b)(1) to read as follows:

§ 1915.155 Head protection.

* * * * *

(b) *Criteria for protective helmets.* (1) Head protection must comply with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1-2009, "American National Standard for Industrial Head Protection," incorporated by reference in § 1915.5;

(ii) American National Standards Institute (ANSI) Z89.1-2003, "American National Standard for Industrial Head Protection," incorporated by reference in § 1915.5; or

(iii) American National Standards Institute (ANSI) Z89.1-1997, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements," incorporated by reference in § 1915.5.

* * * * *

PART 1917—[AMENDED]

Subpart E—[Amended]

■ 9. Amend § 1917.93 by revising paragraph (b)(1) to read as follows:

§ 1917.93 Head protection.

* * * * *

(b)(1) The employer must ensure that head protection complies with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1-2009, "American National Standard for Industrial Head Protection," incorporated by reference in § 1917.3;

(ii) American National Standards Institute (ANSI) Z89.1-2003, "American National Standard for Industrial Head Protection," incorporated by reference in § 1917.3; or

Subpart J—[Amended]

■ 12. Amend § 1918.103 by revising paragraph (b)(1) to read as follows:

§ 1918.103 Head protection.

* * * * *

(b)(1) The employer must ensure that head protection complies with any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, “American National Standard for Industrial Head Protection,” incorporated by reference in § 1918.3;

(ii) American National Standards Institute (ANSI) Z89.1–2003, “American National Standard for Industrial Head Protection,” incorporated by reference in § 1918.3; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, “American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,” incorporated by reference in § 1918.3.

* * * * *

PART 1926—[AMENDED]

Subpart E—[Amended]

■ 16. Amend § 1926.100 as follows:

■ a. Add paragraphs (b)(1) through (b)(3).

■ b. Remove paragraph (c).

§ 1926.100 Head protection.

* * * * *

(b) * * *

(1) The employer must provide each employee with head protection that meets the specifications contained in any of the following consensus standards:

(i) American National Standards Institute (ANSI) Z89.1–2009, “American National Standard for Industrial Head Protection,” incorporated by reference in § 1926.6;

(ii) American National Standards Institute (ANSI) Z89.1–2003, “American National Standard for Industrial Head Protection,” incorporated by reference in § 1926.6; or

(iii) American National Standards Institute (ANSI) Z89.1–1997, “American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,” incorporated by reference in § 1926.6.

(2) The employer must ensure that the head protection provided for each employee exposed to high-voltage electric shock and burns also meets the specifications contained in Section 9.7

(“Electrical Insulation”) of any of the consensus standards identified in paragraph (b)(1) of this section.

(3) OSHA will deem any head protection device that the employer demonstrates is at least as effective as a head protection device constructed in accordance with one of the consensus standards identified in paragraph (b)(1) of this section to be in compliance with the requirements of this section.

[FR Doc. 2012–15030 Filed 6–21–12; 8:45 am]

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42988

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DEPARTMENT OF LABOR

**Occupational Safety and Health
Administration**

29 CFR Part 1926

[Docket No. OSHA-2011-0184]

RIN 1218-AC65

**Updating OSHA Construction
Standards Based on National
Consensus Standards; Head
Protection; Correction of Direct Final
Rule**

AGENCY: Occupational Safety and Health
Administration (OSHA), Department of
Labor.

ACTION: Direct final rule; correction.

§ 1926.100 [Corrected]

On page 37600, correct instruction
number 16, to read as follows:

- 16. Amend § 1926.100 as follows:
- a. Remove paragraph (c).
- b. Revise paragraph (b) to read as follows:

1926.100 Head protection.

* * * * *

(b) *Criteria for head protection.* (1)

The employer must provide each
employee with head protection that
meets the specifications contained in
any of the following consensus
standards:

(i) American National Standards
Institute (ANSI) Z89.1-2009, "American
National Standard for Industrial Head
Protection," incorporated by reference
in § 1926.6;

(ii) American National Standards
Institute (ANSI) Z89.1-2003, "American
National Standard for Industrial Head

Protection," incorporated by reference in § 1926.6; or

(iii) American National Standards Institute (ANSI) Z89.1-1997, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements," incorporated by reference in § 1926.6.

(2) The employer must ensure that the head protection provided for each employee exposed to high-voltage electric shock and burns also meets the specifications contained in Section 9.7 ("Electrical Insulation") of any of the consensus standards identified in paragraph (b)(1) of this section.

(3) OSHA will deem any head protection device that the employer demonstrates is at least as effective as a head protection device constructed in accordance with one of the consensus standards identified in paragraph (b)(1) of this section to be in compliance with the requirements of this section.

Signed at Washington, DC, on July 17, 2012.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2012-17872 Filed 7-20-12; 8:45 am]

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