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**Periodic Review Including Small Business Impact Findings  
Agency Background Document**

<b>Agency name</b>	Department of Labor and Industry/Safety and Health Codes Board
<b>Virginia Administrative Code (VAC) citation</b>	16 VAC 25-145
<b>Regulation title</b>	Safety Standards for Fall Protection in Steel Erection, Construction Industry
<b>Document preparation date</b>	July 22, 2014

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

**Legal basis**

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

Section 40.1-22(5) of the Code of Virginia mandates that the Safety and Health Codes Board adopt standards that most adequately assure that no employee will suffer material impairment of health or functional capacity and that the standards are at least as stringent as the standards promulgated by federal OSHA. While this standard exceeds current federal standards for the construction industry, it does provide occupational safety and health protections that are substantially similar to the required, mandated standards in general industry. The standard also gives construction employers clearer guidelines for providing safe workplaces that offer fall protection to workers.

**Alternatives**

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such*

*alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

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The alternatives considered for this regulation were whether to retain the existing regulation as is, amend it, or repeal it and revert to the federal system of enforcement, which utilizes the General Duty Clause. Although the Commissioner has discretion in the promulgation of this regulation, it must be at least as stringent as the standards promulgated pursuant to the Federal Occupational Safety and Health Act of 1970. The standard was originally subjected to the full Administrative Process Act notice and comment procedures when considered by the Safety and Health Codes Board, an executive branch policy board composed of employer and employee representatives of the regulated industries, as well as other representatives as specified in § 40.1-22 (1). For that reason, there are no designated alternatives to achieve the purpose of this regulation. The current review by the Department considered all alternatives and recommended retention of the standard as originally adopted by the Safety and Health Codes Board. It is the determination of the Department that this regulation is the least burdensome alternative for the protection of employees in the construction industry.

#### Public comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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No public comments were received on this regulation during the public comment period, which began on June 30, 2014, and ended on July 21, 2014. The Agency did not establish an informal advisory group for the purpose of assisting in the periodic review.

#### Effectiveness

*Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

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This regulation meets the criteria set out in Executive Order 14 (2010), which was in effect when the periodic review was initiated. This regulation is necessary to protect public health, safety, and welfare in Virginia by setting forth standards for fall protection in steel erection within the construction industry. This regulation ensures there are adequate restraints in the steel erection workplace to significantly decrease the chances that a worker may fall to an injury or death.

The regulation is clearly written and easily understandable.

**Result**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The Department of Labor and Industry is recommending that this regulation remain in effect with no change.

**Small business impact**

*In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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There is a continuing need for this regulation because it helps to prevent injuries and fatalities due to falls during steel erection in construction industry workplaces. No public comments were received on this regulation during the public comment period. This regulation is not overly complex. The regulation does not overlap, duplicate, or conflict with any federal or state law or regulations. There have not been any significant changes in technology, economic conditions, or other factors in the area affected by this regulation since the last periodic review in 2010. The Department has determined, consistent with the stated objectives of applicable law, that this regulation does not have an adverse economic impact on small businesses, and that this regulation should be retained with no changes.

**Family impact**

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

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This regulation should have minimal impact on the family and on family stability.