



Virginia  
Regulatory  
Town Hall

## Periodic Review and Retention of Existing Regulations Agency Background Document

<b>Agency Name:</b>	Department of Labor and Industry/Safety and Health Codes Board
<b>VAC Chapter Number:</b>	16 VAC 25-160-10 et seq.
<b>Regulation Title:</b>	Construction Industry Standard for Sanitation
<b>Action Title:</b>	Periodic Review of Regulation Pursuant to Executive Order 25 (98)
<b>Date:</b>	July 17, 2000

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

### Summary

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

The Construction Industry Standard for Sanitation requires employers engaged in construction activities to furnish, without cost, to the employees potable water, toilet facilities and hand washing facilities. Potable drinking water containers as well as the toilet and hand washing facilities are required to be maintained in a clean and sanitary condition (in accordance with appropriate public health sanitation practices). The potable drinking water which must be furnished under the regulation must be suitably cool and in sufficient amounts so that it is not completely consumed during the workday. Drinking water must be dispensed in single-use drinking cups.

Also, the regulation requires that toilet and hand washing facilities be provided at a 20:1 (workers : facility) ratio. Toilet facilities will be adequately ventilated, appropriately screened with self-closing doors that can be closed and latched from inside, and will be constructed to ensure privacy.

### Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

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Section 40.1-22(5) of the Code of Virginia mandates 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 be as stringent as the standards promulgated by Federal OSHA. At the time of adoption, the Federal Occupational Safety and Health Administration comparable standard for construction was determined by the Board as providing inadequate sanitation safeguards.

### Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also 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 30 day public comment period which began April 24, 2000. The Agency and the Safety and Health Codes Board did not establish an informal advisory group for the purpose of assisting in the periodic review.

### Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

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The regulation has three goals:

1. Reduce the incidence of material impairment of the health of Virginia workers due to workplace exposure to known hazards.

- 2. Require sanitary facilities for construction workers equal to those required for agricultural workers.
- 3. Protect the public’s health, safety and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

The primary goal of this regulation is to address health hazards associated with poor sanitation conditions at construction sites, such as, insufficient potable water, insufficient hand washing facilities, inadequate toilet facilities, and the physical harm which may occur due to retention of urine and feces over long periods of time. The Construction Industry Standard for Sanitation is designed to reduce or eliminate the health problems faced by employers and employees working in the construction industry. The provision of these facilities serves to reduce or eliminate the following major categories of occupational diseases: heat related illness, communicable disease and urinary tract infections.

The scope and impact of the regulation are limited to the workplace or other such occupational settings and, as such, have no impact on the institution of the family or family stability.

The regulation is clearly written and understandable by the individuals and entities affected.

**Alternatives**

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

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The agency has determined that the alternative for achieving the purpose of the existing regulation is to replace the existing regulation with the Federal OSHA regulatory standard found at 29 CFR 1926. 51. After a review and analysis by the agency, the Safety and Health Codes Board voted to table the agency recommendation that the regulation be repealed and replaced with the equivalent federal OSHA regulatory standard for construction sanitation found at 29 CFR 1926. 51. The Board members stated more study was needed on the federal standard to determine if it would be more effective in protecting construction employees in Virginia from illness and disease.

**Recommendation**

*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 and the Safety and Health Codes Board recommend retaining the regulation in effect without change until further study on the federal equivalent standard is completed.

**Family Impact Statement**

*Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.*

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The scope and impact of the regulation is limited to the workplace or other such occupational settings and, therefore, has no impact on the institution of family or family stability.