



**Periodic Review / Retain Regulation  
Agency Background Document**

<b>Agency name</b>	Department of Labor and Industry
<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>	August 19, 2010

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 be 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 substantially similar and safer safety and health protection as the required, mandated standards in general industry. The standard also provides construction employers with clearer guidelines for providing a safe workplace in the area of fall protection.

**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.*

Alternatives considered were to eliminate the regulation and revert to the federal system of enforcement which utilizes the General Duty Clause or retain the current regulation unchanged. 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). 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. The Department is not aware of any alterations in the regulatory environment that would alter that assessment.

**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.*

Commenter	Comment	Agency response

No public comments were received on this regulation during the public comment period which began on June 7, 2010, and ended on June 29, 2010. 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 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.*

This regulation meets the criteria set out in Executive Order 14 because it is necessary for the protection of public health, safety, and welfare. It is clearly written and easily understandable.

**Result**

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

The Department of Labor and Industry recommends that this regulation remain in effect with no changes.

**Family impact**

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

This regulation should have no impact on the institution of the family or family stability.