



Virginia  
Regulatory  
Town Hall

[townhall.state.va.us](http://townhall.state.va.us)

## Exempt Action Final Regulation 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 25-90-1910.178
<b>Regulation title</b>	Powered Industrial Trucks, General Industry
<b>Action title</b>	Technical Amendment to Powered Industrial Trucks, General Industry
<b>Final agency action date</b>	June 13, 2003
<b>Document preparation date</b>	June 23, 2003

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006(A) of the Administrative Process Act (APA) ([townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://townhall.state.va.us/dpbpages/dpb_apa.htm)), 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 ([leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4100](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-4100)), the *Virginia Register Form, Style, and Procedure Manual* ([legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)), and Executive Orders 21 (02) and 58 (99) ([governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html))

### 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 13, 2003, the Safety and Health Codes Board adopted an identical version of federal OSHA's technical amendment for 16 VAC 25-90-1910.1910.178, Powered Industrial Trucks, General Industry, Final Rule, §1910.178. The effective date of this technical amendment is September 1, 2003.

In 1971, OSHA published a final rule adopting national consensus standards and it also established OSHA Standards for General Industry. These standards were intended to include only the mandatory provisions of relevant American National Standards Institute ("ANSI") or National Fire Protection Association ("NFPA") standards. When §1910.178(m)(12), which deals with trucks equipped with personnel lifts, was originally published in 1971, it contained the mandatory language ("shall"); however, the corresponding ANSI standard, upon which subsection (m)(12) was based, contained only the advisory language ("should"). Federal OSHA corrected this error by deleting §1910.178(m)(12) because it was invalidly promulgated from a

non-mandatory provision of a national consensus standard and therefore was legally unenforceable.

### Family impact

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

---

The technical amendment has no impact on the institution of the family or family stability.