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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(s)	16 VAC25-90-1910.331, Electrical Safety-Related Work Practices; 16VAC25-90-1910.269, Electric Power Generation, Transmission, and Distribution; 16VAC25-175-1926.950, General; and 16VAC25-175-1926.960
Regulation title(s)	Electrical Safety-Related Work Practices; Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment
Action title	Corrections to Electrical Safety-Related Work Practices; Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment
Final agency action date	March 3, 2016
Date this document prepared	March 29, 2016

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) or an agency's basic statute, the agency is not required, however, 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 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

OSHA corrected the Electrical Safety-Related Work Practices standard for General Industry and the Electric Power Generation, Transmission and Distribution standards for General Industry and Construction to provide additional clarification regarding the applicability of the standard to certain operations, including some tree trimming work that is performed near, but that is not on or directly associated with, electric power generation, transmission, and distribution installations. OSHA also corrected minor errors in two minimum approach distances tables in the general industry and construction standards for electric power generation, transmission and distribution work. The corrections are as follows:

- 1) Expressly limiting the scope of §1910.269 as it relates to line-clearance tree trimming by revising §1910.269(a)(1)(i)(E) to state explicitly that the standard applies to line-clearance tree trimming only to the extent it is performed for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment and on behalf of an organization that operates, or that controls the operating procedures for, those lines or equipment.
- 2) Adding a note to the definition of “line-clearance tree trimming” in §1910.269(x), with corresponding revisions to Note 2 to the definition of “line-clearance tree trimmer,” to explain that:
 - a) The scope of §1910.269 limits the application of the standard to line-clearance tree trimming as noted in §1910.269(a)(1)(i)(E);
 - b) Tree trimming that is performed on behalf of a homeowner or commercial entity other than an organization that operates, or that controls the operating procedures for, electric power generation, transmission, or distribution lines or equipment, or that is not for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment, is not directly associated with an electric power generation, transmission, or distribution installation and is not covered by §1910.269.
 - c) Revising Appendix A-3 to §1910.269 to reflect the clarifications in this correcting amendment.
 - d) Replacing terms such as “line-clearance tree-trimming operations” and “line-clearance tree-trimming work” wherever they appear in §1910.269 and Subpart V of Part 1926 with “line-clearance tree trimming” and revising §1926.950(a)(3) to correspond to the changes to §1910.269(a)(1)(i)(E), noted earlier.
 - e) Referencing the scope of §1910.269 in Note 3 to §1910.331(c)(1).
 - f) Correcting minor errors in Table R-6 of §1910.269 and in Table V-5 of §1926.960 in Subpart V of Part 1926. Table R-3 of §1910.269 and Table V-2 of §1926.960 in Subpart V, which contain equations for employers to use to establish minimum approach distances from energized parts of electric circuits, set the minimum approach distance for 50 to 300 volts as “avoid contact.” Using the equations in Table R-3 and Table V-2, Table R-6 and Table V-5 provide default minimum approach distances for voltage ranges up to 72.5 kilovolts.

- g) The latter two tables, Table R-6 and Table V-5, erroneously list the first voltage range as 0.50 to 0.300 kilovolts. The correct voltage range is 0.050 to 0.300 kilovolts. Additionally, the word, “to”, is missing between the voltages in the first voltage range in Table V-5 of §1926.960. Accordingly, OSHA has corrected Table R-6 and Table V-5.

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 March 3, 2016, the Safety and Health Codes Board adopted federal OSHA’s Corrections to the Standards for Electrical Safety-Related Work Practices, §1910.331 [Subpart S –Electrical]; Electric Power Generation, Transmission, and Distribution, §1910.269 [Subpart R – Special Industries]; General, 1926.950 [Subpart V – Power Transmission and Distribution]; and Working on or near Exposed Energized Parts, 1926.960 [Subpart V – Power Transmission and Distribution], as published on October 5, 2015, in 80 FR 60033, with an effective date of June 15, 2016.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action will have no impact on the institution of the family and family stability.

To access the Corrections to the Standards for Electrical Safety-Related Work Practices, §1910.331 [Subpart S –Electrical]; Electric Power Generation, Transmission, and Distribution, §1910.269 [Subpart R – Special Industries]; General, 1926.950 [Subpart V – Power Transmission and Distribution]; and Working on or near Exposed Energized Parts, 1926.960 [Subpart V – Power Transmission and Distribution], please click on the link below:

http://www.osha.gov/FedReg_osha_pdf/FED20151005E.pdf

**Electrical Safety-Related Work Practices, §1910.331 [Subpart S – Electrical];
Electric Power Generation, Transmission, and Distribution, §1910.269 [Subpart R - Special Industries];
General, §1926.950 [Subpart V – Power Transmission and Distribution]; and
Working On or Near Exposed Energized Parts, §1926.960 [Subpart V - Power Transmission and
Distribution]; Corrections**

As Adopted by the
Safety and Health Codes Board

Date: March 3, 2016



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: June 15, 2016

Electrical Safety-Related Work Practices, §1910.331 - Subpart S - Electrical;
Electric Power Generation, Transmission, and Distribution, §1910.269 [Subpart R - Special Industries];
General, §1926.950 [Subpart V - Power Transmission and Distribution]; and
Working On or Near Exposed Energized Parts, §1926.960 [Subpart V - Power Transmission and
Distribution]

When the regulations, as set forth in the Corrections to Electrical Safety-Related Work Practices, §1910.331 [Subpart S – Electrical]; Electric Power Generation, Transmission, and Distribution, §1910.269 [Subpart R - Special Industries]; General, §1926.950 [Subpart V - Power Transmission and Distribution]; and Working On or Near Exposed Energized Parts, §1926.960 [Subpart V - Power Transmission and Distribution], 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

October 5, 2015

June 15, 2016

The Occupational Safety and Health Administration amends parts 1910 and 1926 of title 29 of the Code of Federal Regulations as follows:

PART 1910—[AMENDED]

Subpart R—Special Industries

■ 1. The authority citation for subpart R of part 1910 continues to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 5-2007 (72 FR 31159), 4-2010 (75 FR 55355), or 1-2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

* * * * *

■ 2. Amend § 1910.269 by:

■ a. Removing the terms “line-clearance tree-trimming operations,” “line-clearance tree trimming operations,” “line-clearance tree-trimming work,” and “line-clearance tree trimming work” in paragraphs (a)(1)(i)(E) introductory text, (a)(1)(i)(E)(1) and (2), (a)(1)(ii)(A), (b)(1)(i), (r) subject heading and introductory text, (r)(1)(vi), and in the Note to paragraph (r)(1)(vi), and adding, in their place the term “line-clearance tree trimming”;

■ b. Revising paragraph (a)(1)(i)(E);

■ c. In Table R-6, first entry, removing “0.50” and adding in its place “0.050”;

■ d. Revising paragraph (r) introductory text;

■ e. In paragraph (x), revising Note 2 to the definition of “line-clearance tree trimmer” and adding a note to the definition of “line-clearance tree trimming”; and

■ f. Revising appendices A-3 and A-5. The revisions and addition read as follows:

§ 1910.269 Electric power generation, transmission, and distribution.

- (a) * * *
- (1) * * *
- (i) * * *

(E) Line-clearance tree trimming performed for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment and on behalf of an organization that operates, or that controls the operating procedures for, those lines or equipment, as follows:

(1) Entire § 1910.269, except paragraph (r)(1) of this section, applies to line-clearance tree trimming covered by the introductory text to paragraph (a)(1)(i)(E) of the section when performed by qualified employees (those who are knowledgeable in the construction and operation of the electric power generation, transmission, or distribution equipment involved, along with the associated hazards).

(2) Paragraphs (a)(2), (a)(3), (b), (c), (g), (k), (p), and (r) of this section apply to

line-clearance tree trimming covered by the introductory text to paragraph (a)(1)(i)(E) of this section when performed by line-clearance tree trimmers who are not qualified employees.

* * * * *

(r) *Line-clearance tree trimming*. This paragraph provides additional requirements for line-clearance tree trimming and for equipment used in this type of work.

* * * * *

- (x) * * *

Line-clearance tree trimmer. * * *

Note 2 to the definition of “line-clearance tree trimmer”: A line-clearance tree trimmer is not considered to be a “qualified employee” under this section unless he or she has the training required for a qualified employee under paragraph (a)(2)(ii) of this section. However, under the electrical safety-related work practices standard in Subpart S of this part, a line-clearance tree trimmer is considered to be a “qualified employee.” Tree trimming performed by such “qualified employees” is not subject to the electrical safety-related work practice requirements contained in §§ 1910.331 through 1910.335 when it is directly associated with electric power generation, transmission, or distribution lines or equipment. (See § 1910.331 for requirements on the applicability of the electrical safety-related work practice requirements contained in §§ 1910.331 through 1910.335 to line-clearance tree trimming performed by such “qualified employees,” and see the note

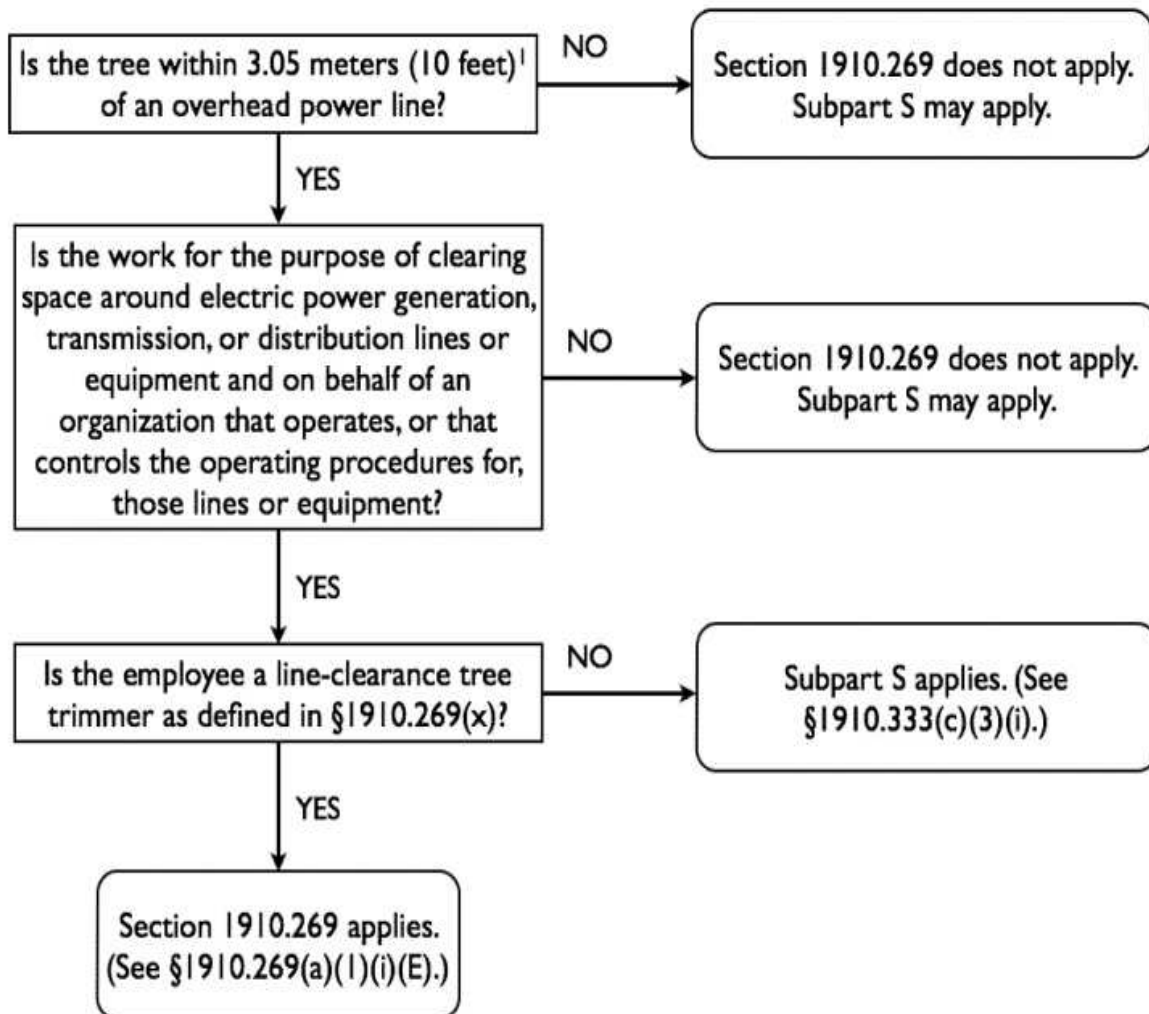
following § 1910.332(b)(3) for information regarding the training an employee must have to be considered a qualified employee under §§ 1910.331 through 1910.335.)

Line-clearance tree trimming. * * *

Note to the definition of “line-clearance tree trimming”: This section applies only to line-clearance tree trimming performed for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment and on behalf of an organization that operates, or that controls the operating procedures for, those lines or equipment. See paragraph (a)(1) of this section. Tree trimming performed on behalf of a homeowner or commercial entity other than an organization that operates, or that controls the operating procedures for, electric power generation, transmission, or distribution lines or equipment is not directly associated with an electric power generation, transmission, or distribution installation and is outside the scope of this section. In addition, tree trimming that is not for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment is not directly associated with an electric power generation, transmission, or distribution installation and is outside the scope of this section. Such tree trimming may be covered by other applicable standards. See, for example, §§ 1910.268 and 1910.331 through 1910.335.

* * * * *

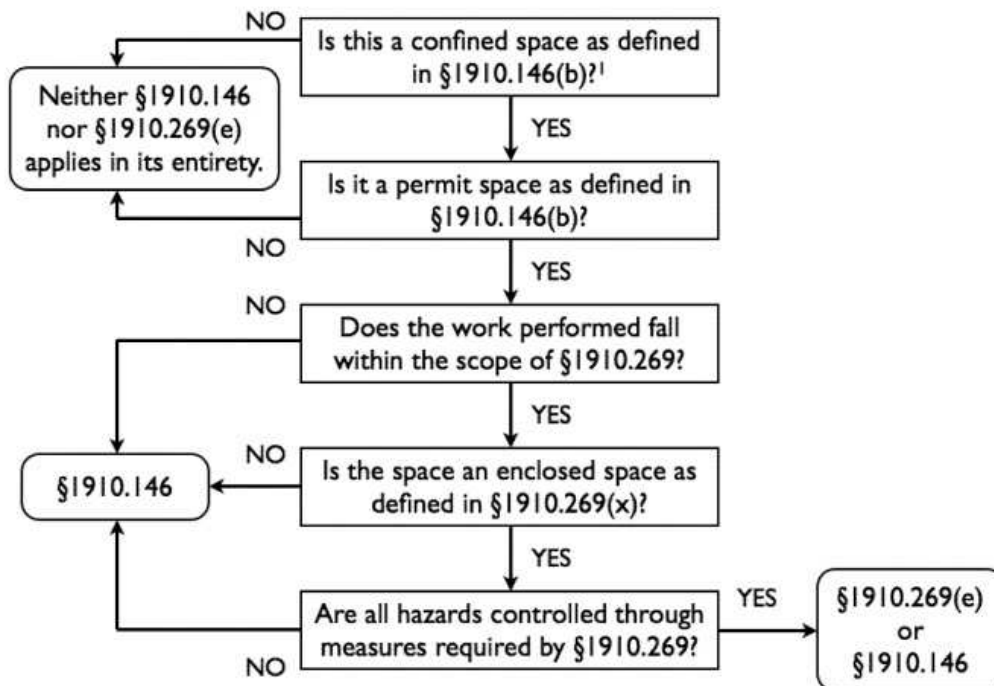
Appendix A-3—Application of §1910.269 and Subpart S of this Part to Tree Trimming



¹ 3.05 meters (10 feet) plus 0.1 meters (4 inches) for every 10 kilovolts over 50 kilovolts.

Appendix A-5 to §1910.269—Application of §§1910.146 and 1910.269 to Permit-Required

Confined Spaces



¹See §1910.146(c) for general nonentry requirements that apply to all confined spaces.

Note: Paragraph (t) of §1910.269 contains additional requirements for work in manholes and underground vaults.

Subpart S—Electrical

■ 3. The authority citation for subpart S of part 1910 continues to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 8-76 (41 FR 25059), 1-90 (55 FR 9033), 5-2002 (67 FR 65008), 5-2007 (72 FR 31160), or 1-2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

* * * * *

■ 4. Amend § 1910.331 by revising paragraph (b) and Note 3 to paragraph (c)(1) to read as follows:

§ 1910.331 Scope.

* * * * *

(b) *Other covered work.* The provisions of §§ 1910.331 through 1910.335 also cover:

(1) Work performed by unqualified persons on, near, or with the

installations listed in paragraphs (c)(1) through (4) of this section; and

(2) Work performed by qualified persons near the installations listed in paragraphs (c)(1) through (c)(4) of this section when that work is not on or directly associated with those installations.

(c) * * *
(1) * * *

Note 3 to paragraph (c)(1): Work on or directly associated with generation, transmission, or distribution installations includes:

(1) Work performed directly on such installations, such as repairing overhead or underground distribution lines or repairing a feed-water pump for the boiler in a generating plant.

(2) Work directly associated with such installations, such as line-clearance tree trimming and replacing utility poles, when that work is covered by § 1910.269 (see § 1910.269(a)(1)(i)(D) and (E) and the

definition of "line-clearance tree trimming" in § 1910.269(x)).

(3) Work on electric utilization circuits in a generating plant provided that:

(A) Such circuits are commingled with installations of power generation equipment or circuits, and

(B) The generation equipment or circuits present greater electrical hazards than those posed by the utilization equipment or circuits (such as exposure to higher voltages or lack of overcurrent protection).
This work is covered by § 1910.269.

* * * * *

PART 1926—[AMENDED]

Subpart V—Electric power transmission and distribution

■ 5. The authority citation for subpart V of part 1926 continues to read as follows:

60040 Federal Register / Vol. 80, No. 192 / Monday, October 5, 2015 / Rules and Regulations

Authority: 40 U.S.C. 3701 *et seq.*; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 1-2012 (77 FR 3912); and 29 CFR part 1911.

■ 6. In § 1926.950, revise paragraph (a)(3) to read as follows:

§ 1926.950 General.

(a) * * *

(3) *Applicable part 1910 requirements.* (i) Line-clearance tree trimming performed for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment and on behalf of an organization that operates, or that controls the operating procedures for, those lines or equipment shall comply with § 1910.269 of this chapter.

(ii) Work involving electric power generation installations shall comply with § 1910.269 of this chapter.

* * * * *

§ 1926.960 [Amended]

■ 7. In § 1926.960, in Table V-5, first entry, remove "0.50" and add in its place "0.050 to".

[FR Doc. 2015-25062 Filed 10-2-15; 8:45 am]

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