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

Agency name	Department of Labor and Industry/ Safety and Health Codes Board
Virginia Administrative Code (VAC) citation	16 VAC 25-97
Regulation title	Reverse Signal Procedures - General Industry - Vehicles/Equipment Not Covered By Existing Standards
Document preparation date	July 18, 2013

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**

The Safety and Health Codes Board is authorized by Title 40.1-22(5) to:

“... adopt, alter, amend, or repeal rules and regulations to further, protect and promote the safety and health of employees in places of employment over which it has jurisdiction and to effect compliance with the federal OSH Act of 1970...as may be necessary to carry out its functions established under this title.”

“In making such rules and regulations to protect the occupational safety and health of employees, the Board shall adopt the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence that no employee will suffer material impairment of health or functional capacity.”

“However, such standards shall be at least as stringent as the standards promulgated by the federal OSH Act of 1970 (P.L.91-596). In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experiences gained under this and other health and safety laws.

**Alternatives**

The department is unaware of any viable alternatives to the proposed regulatory action to decrease the number of worker fatalities and injuries caused by unintended backovers. Any alternatives to be considered by the department would have to be feasible from both a technological and cost perspective as well as be practical to implement procedurally in the workplace.

**Public comment**

No comments were received during the public comment period, which extended from April 8, 2013 through May 23, 2013.

**Effectiveness**

This regulation is necessary for the protection of public health, safety, and welfare. It is clearly written and easily understandable.

**Result**

The Department of Labor and Industry and the Safety and Health Codes Board recommend retaining the regulation without 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.

Construction companies must meet certain standards pursuant to the U.S. Occupational Safety and Health (OSH) Act (1970). In addition, because federal OSHA mandates that State Plan states be at least as effective as federal OSHA, there is a continued need for such a regulation. There were no comments on the regulation during the public comment period. This regulation affects all businesses (large and small) that are engaged in construction activity. The regulation is not overly complex. It does not increase the costs for small businesses, because the costs are the result of actions that are required by federal law and regulation to provide the protections mandated by this regulation.

As noted above, companies engaged in construction activity must meet certain standards pursuant to the U.S. Occupational Safety and Health (OSH) Act (1970) and federal OSHA mandates that State Plan states be at least as effective as federal OSHA. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation, as these state regulations are enforced by the Department in lieu of direct federal enforcement as per agreement between the Department and federal OSHA.

This regulation was last subjected to a periodic review in 2009. Since that review, there have been no significant changes in technology, economic conditions, or other factors in the area affected by the regulation. At this time, there is nothing to indicate that 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. The Department believes that the regulation provides a positive cost/benefit to the regulated community, as adherence to the requirements of this regulation may actually lower costs to small businesses, by protecting the health and well-being of their employees, thus, shielding the businesses from the costs of litigation due to injuries or fatalities.

**Family impact**

This proposed regulation has no potential impact on the institution of the family or family stability.