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Proposed Regulation Agency Background Document

Agency name	Virginia Department of Labor and Industry
Virginia Administrative Code (VAC) citation	New: 16 VAC 25-96; 16 VAC 25-97 Amend: 16 VAC 25-90-1910.269(p)(1)(ii); 16 VAC 25-175-1926.601(b); 16 VAC 25-175-1926.602(a)(9)(ii); and 16 VAC 25-175-1926.952(a)(3)
Regulation title	Reverse Signal Operation Safety Procedures Dealing with Vehicular Equipment, Motor Vehicles, Material Handling Equipment and Motor Vehicle Equipment in Existing Standards
Action title	Proposed Regulation 16 VAC 25-96 to Amend Reverse Signal Operation Safety Procedures Dealing with Vehicular Equipment, Motor Vehicles, Material Handling Equipment and Motor Vehicle Equipment in Existing Standards: 16 VAC 25-90-1910.269; 16 VAC 25-175-1926.601; 16 VAC 25-175-602 and 16 VAC 25-175-1926.952; and Proposed Regulation 16 VAC 25-97 to Establish Reverse Signal Operation Safety Requirements for Vehicles, Machinery and Equipment for General Industry and the Construction Industry
Date this document prepared	December 18, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

In the construction industry, the VOSH Program seeks the amendment of reverse signal operation safety procedures in standards for the construction industry in §§1926.601(b)(4), 1926.602(a)(9)(ii), and 1926.952(a)(3); and to establish a comprehensive reverse signal

operation procedures regulation for all construction vehicles, machinery and equipment with an obstructed view to the rear, whether for operation in off-road work zones or over the road transportation or hauling.

In general industry, the VOSH Program seeks the amendment of the reverse signal operation safety procedures for the Electric Power Generation, Transmission and Distribution standard for general industry contained in §1910.269(p)(1)(ii); and to establish a comprehensive reverse signal operation safety procedures regulation for all general industry vehicles or equipment with an obstructed view to the rear, whether for operation in off-road work zones or over the road transportation or hauling.

The proposed regulation provides additional protection for employees by requiring the following for all vehicles, machinery and equipment in construction and general industry with an obstructed view to the rear, whether for operation in off-road work zones or over the road transportation or hauling:

The back-up alarm requirements in the current regulations at 1910.269(p)(1)(ii), 1926.601(b), 1926.602(a)(9)(ii), 1926.952(a)(3), will be deleted by 16 VAC 25-96, and the regulated community is referred to the new comprehensive proposed regulation at: Reverse Signal Operation Safety Requirements for Motor Vehicles, Machinery and Equipment in General Industry and the Construction Industry, 16 VAC 25-97

The new comprehensive proposed regulation at 16 VAC 25-97 will provide that construction and general industry vehicles, machinery and equipment (hereafter referred to as covered vehicles), whether for operation in off-road work zones or over the road transportation or hauling, shall not be operated in reverse unless the vehicle has a reverse signal alarm audible above the surrounding noise level and the vehicle is backed up only when a designated observer or ground guide signals that it is safe to do so. (Current regulations require either the use of a reverse signal alarm or a designated signaler/ground guide to back up the vehicle or equipment).

Other provisions in the proposal would provide that

- designated signalers/ground guides must have no other assigned duties.
- drivers must maintain constant visual contact with the designated signaler/ground guide.
- designated signalers/ground guides and drivers must be provided training on the requirements of the proposed amendments.
- vehicles with video or similar technological capability to provide the driver with a full view behind the vehicle would be exempt from the requirement to have a designated signaler/ground guide.

- vehicles would be exempt from the requirement to have a designated signaler/ground guide if the driver visually determines from outside the vehicle that no employees are in the backing zone and that it is reasonable to expect that no employees will enter the backing zone during reverse operation of the vehicle.
- vehicles that were not equipped with a reverse-signal alarm upon manufacture or were not later retrofitted with an alarm are exempt from having a reverse signal alarm audible above the surrounding noise level, but must still comply with other requirements in the proposed regulation.
- to the extent that any federal Department of Transportation (DOT) regulation applies to covered vehicles conflicts with this section, the DOT regulation will take precedence.

The proposed regulation also provides a definition of the phrase “obstructed view to the rear.”

It is estimated that there are approximately 136,222 establishments that could be impacted by this proposed regulation, with approximately 136,000 of these establishments being small businesses.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

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 VOSH 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.”

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The purpose of the proposed change is to provide more comprehensive protection to employees in construction and general industry work areas exposed to vehicular, machinery and equipment traffic covered by the aforementioned standards and to provide the same degree of protection to employees in similar working conditions where vehicles, machinery and equipment with obstructed views to the rear are not otherwise covered by current regulations. The proposed regulation will apply to all covered vehicles, machinery and equipment in both construction and general industry, whether during operations in off-road work zones or over the road transportation or hauling.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The VOSH Program seeks the amendment of reverse signal operation safety procedures in standards for the construction industry in 16 VAC 25-175-1926.601(b)(4), 16 VAC 25-175-1926.602(a)(9)(ii), and 16 VAC 25-175-1926.952(a)(3) and for the General Industry Standard for the Electric Power Generation, Transmission and Distribution in §16 VAC 25-90-1910.269(p)(1)(ii). The VOSH Program also seeks to establish a comprehensive reverse signal operation procedures regulation for all construction and general industry vehicles, machinery and equipment with an obstructed view to the rear, whether for operation in off-road work zones or over the road transportation or hauling.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

Employers would be required to train both drivers of covered vehicles, machinery and equipment and designated employee signalers/ground guides on the requirements of the amended and new

regulations. The proposed regulation would provide employers with flexibility to achieve safe vehicle back-up operations to include:

Covered vehicles with video or similar technological capability to provide the driver with a full view behind the vehicle can be operated in reverse without a designated employee signaler/ground guide.

Covered vehicles could be exempted from using a designated employee signaler/ground guide if it has a reverse signal alarm audible above surrounding noise and the driver visually determines from outside the vehicle that no employees are in the backing zone and that it is reasonable to expect that no employees will enter the backing zone during reverse operations.

Covered vehicles that were not equipped with a reverse-signal alarm upon manufacture or later retrofitted with an alarm are exempt from the reverse signal alarm requirement if they either use a designated employee signaler/ground guide, or if the driver visually determines from outside the vehicle that no employees are in the backing zone and that it is reasonable to expect that no employees will enter the backing zone during back-up.

To the extent that any federal Department of Transportation (DOT) regulation applying to covered vehicles conflicts with any proposed regulation adopted by the Board, the DOT regulation would preempt any Board regulation in accordance with Va. Code §40.1-1.

Construction and general industry employees across the state would benefit from increased safety requirements from vehicular, machinery and equipment back-up operations. (Current standards are limited in their scope and do not apply to all construction and general industry vehicles and equipment with an obstructed view to the rear). A significant reduction in employee deaths attributed to covered vehicles is anticipated (for the period 1992 to 2005, VOSH investigated 9 general industry and 15 construction fatal accidents where employees were struck by vehicles or equipment). Employees that are drivers of covered vehicles or designated signalers/ground guides will have to receive training on the requirements of the proposed regulation.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

The proposed regulation provides additional protection for employees by requiring the following for all vehicles, machinery and equipment in construction and general industry with an obstructed view to the rear, whether for operation in off-road work zones or over the road transportation or hauling:

The back-up alarm requirements in the current regulations at 1910.269(p)(1)(ii), 1926.601(b), 1926.602(a)(9)(ii), 1926.952(a)(3), will be deleted by 16 VAC 25-96, and the regulated community is referred to the new comprehensive proposed regulation at:

Reverse Signal Operation Safety Requirements for Motor Vehicles,
Machinery and Equipment in General Industry and the Construction
Industry, 16 VAC 25-97

The new comprehensive proposed regulation at 16 VAC 25-97 will provide that construction and general industry vehicles, machinery and equipment (hereafter referred to as covered vehicles), whether for operation in off-road work zones or over the road transportation or hauling, shall not be operated in reverse unless the vehicle has a reverse signal alarm audible above the surrounding noise level and the vehicle is backed up only when a designated observer or ground guide signals that it is safe to do so. The proposed regulation provides a definition of the phrase “obstructed view to the rear.”

While engaged in signaling activities, designated signalers/ground guides must have no other assigned duties, must not be distracted by such things as personal cellular phones or headsets and must be provided with and wear high visibility/reflective warning garments.

No driver of a covered vehicle will travel in reverse unless they maintain constant visual contact with the designated signaler/ground guide. If visual contact is lost, the driver must immediately stop the vehicle until visual contact is regained and a positive indication is received from the signaler/ground guide that backup operations can proceed.

Prior to permitting an employee to engage in any covered activity, the employer shall ensure that each driver of a covered vehicle and each designated signaler/ground guide is trained in the requirements of this section. Refresher training shall be provided by the employer for any driver of a covered vehicle or any designated signaler/ground guide when the driver or designated signaler has been observed to violate the requirements of this section or involved in an accident or near miss accident; or has received an evaluation that reveals that the driver or designated signaler/ground guide is not operating in a safe manner.

Covered vehicles with video or similar technological capability to provide the driver with a full view behind the vehicle are exempt from the requirement to have a designated signaler/ground guide.

Covered vehicles are exempt from the requirement to have a designated signaler/ground guide if the driver visually determines from outside the vehicle that no employees are in the backing zone and that it is reasonable to expect that no employees will enter the backing zone during reverse operation of the vehicle.

Covered vehicles that were not equipped with a reverse-signal alarm upon manufacture or were not later retrofitted with an alarm are exempt from having a reverse signal alarm audible above the surrounding noise level, but must still comply with other requirements in the proposed

regulation.

To the extent that any federal Department of Transportation (DOT) regulation applies to covered vehicles conflicts with this section, the DOT regulation will take precedence.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities that are particularly affected by the proposed regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to Mr. Jay Withrow, Director, Office of Legal Support, Department of Labor & Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, VA 23219-4104; telephone # 804.786.9873; fax # 804.786.8418; Jay.Withrow@doli.virginia.gov

Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	No significant cost is anticipated on the department.
Projected cost of the regulation on localities	No significant cost is anticipated on the locality.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Construction and general industry businesses which utilize tow trucks, fork lifts, tractor-trailer trucks, logging vehicles, pavement planers, dump trucks, fuel trucks, tandem trucks, trackhoes, vacuum trucks and other vehicle/equipment with an obstructed view to the rear. Also, construction and general industry employers who operate worksites with vehicular/equipment traffic and who also provide a designated signaler/ground guide.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Approximately 136,222 establishments may be affected by this proposed regulation, with approximately 136,000 of these establishments being small businesses.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	Some costs to employers would be associated with the training required under the standard.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

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.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

To provide employers with flexibility to achieve safe vehicle back-up operations, the proposed regulation added provisions to include the following: covered vehicles with video or similar technological capability to provide the driver with a full view behind the vehicle can be operated in reverse without a designated employee signaler/ground guide; covered vehicles could be exempted from using a designated employee signaler/ground guide if it has a reverse signal alarm audible above surrounding noise and the driver visually determines from outside the vehicle that no employees are in the backing zone and that it is reasonable to expect that no employees will enter the backing zone during reverse operations; covered vehicles that were not equipped with a reverse-signal alarm upon manufacture or later retrofitted with an alarm are exempt from the reverse signal alarm requirement if they either use a designated employee signaler/ground guide, or if the driver visually determines from outside the vehicle that no employees are in the backing zone and that it is reasonable to expect that no employees will enter the backing zone during back-up; and to the extent that any federal department of Transportation (DOT) regulation applying to covered vehicles conflicts with any proposed regulation adopted by the Board, the DOT regulation would preempt any Board regulation in accordance with Va. Code §40.1-1.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

No comments were received during the 30-day public comment period which extended from September 4, 2006 through October 4, 2006.

Family impact

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

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
16 VAC 25-90-1910.269(p)(1)(ii)	16 VAC 25-96	<p>1910.269(p)(1)(ii): No vehicular equipment having an obstructed view to the rear may be operated on off-highway jobsites where any employee is exposed to the hazards created by the moving vehicle unless:</p> <p>(i) The vehicle has a reverse signal alarm audible above the surrounding noise level, or;</p> <p>(ii) The vehicle is backed up only when a designated employee signals that it is safe to do so.</p>	<p>1910.269(p)(1)(ii): No vehicular equipment having an obstructed view to the rear may be operated on off highway jobsites where any employee is exposed to the hazards created by the moving vehicle unless:</p> <p>(i)The vehicle has a reverse signal alarm audible above the surrounding noise level, or;</p> <p>(ii) The vehicle is backed up only when a designated employee signals that it is safe to do so.</p> <p><u>See Reverse Signal Operation Safety Requirements for Motor Vehicles, Machinery and Equipment in General Industry and the Construction Industry, 16 VAC 25-97.</u></p>
16 VAC 25-175-1926.601(b)(4)	16 VAC 25-175-1926.601(b)(4)	<p>§1926.601(b)(4): No employer shall use any motor vehicle equipment having an obstructed view to the rear unless:</p> <p>(i) The vehicle has a</p>	<p>§1926.601(b)(4): No employer shall use any motor vehicle equipment having an obstructed view to the rear unless:</p> <p>(i) The vehicle has a reverse signal</p>

<p>16 VAC 25-175-1926.602(a)(9)(ii)</p>	<p>16 VAC 25-175-1926.602(a)(9)(ii)</p>	<p>reverse signal alarm audible above the surrounding noise level or;</p> <p>(ii) The vehicle is backed up only when an observer signals that it is safe to do so.</p>	<p>alarm audible above the surrounding noise level or;</p> <p>(ii) The vehicle is backed up only when an observer signals that it is safe to do so.</p> <p><u>See Reverse Signal Operation Safety Requirements for Motor Vehicles, Machinery and Equipment in General Industry and the Construction Industry, 16 VAC 25-97.</u></p>
<p>16 VAC 25-175-1926.952(a)(3)</p>	<p>16 VAC 25-175-1926.952(a)(3)</p>	<p>No employer shall permit earthmoving or compacting equipment which has an obstructed view to the rear to be used in reverse signal unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level or an employee signals that it is safe to do so.</p> <p>§1926.952(a)(3): No employer shall use any motor vehicle equipment having an obstructed view to the rear unless:</p> <p>(i) The vehicle has a reverse signal alarm audible above the surrounding noise level or;</p> <p>(ii) The vehicle is backed up only when an observer signals that it is safe to do so.</p>	<p>No employer shall permit earthmoving or compacting equipment which has an obstructed view to the rear to be used in reverse signal unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level or an employee signals that it is safe to do so.</p> <p><u>See Reverse Signal Operation Safety Requirements for Motor Vehicles, Machinery and Equipment in General Industry and the Construction Industry, 16 VAC 25-97.</u></p> <p>§1926.952(a)(3): No employer shall use any motor vehicle equipment having an obstructed view to the rear unless:</p> <p>(i)The vehicle has a reverse signal alarm audible above the surrounding noise level or;</p> <p>(ii) The vehicle is backed up only when an observer signals that it is safe to do so.</p> <p><u>See Reverse Signal Operation Safety Requirements for Motor Vehicles, Machinery and Equipment in the Construction Industry, 16 VAC 25-97.</u></p> <p>Rationale: The proposed regulation provides additional protection for</p>

	<p>16 VAC 25-97</p>	<p>employees by requiring all vehicles, machinery and equipment in construction and general industry with an obstructed view to the rear, whether for operation in off-road work zones or over the road transportation or hauling. Back-up alarm requirements will be deleted by 16 VAC 25-96 in the following current regulations: §§1910.269(p)(1)(ii), 1926.601(b), 1926.602(a)(9)(ii), 1926.952(a)(3) and the regulate community is referred to the new comprehensive proposed regulation, 16 VAC 25-97, Reverse Signal Operation Safety Requirements for Motor Vehicles, Machinery and Equipment in General Industry and the Construction Industry.</p> <p><u>Reverse Signal Operation Safety Requirements for Motor Vehicles, Machinery and Equipment in General Industry and the Construction Industry</u></p> <p><u>A. This section shall apply to all general industry and construction industry vehicles, machinery or equipment capable of traveling in reverse and with an obstructed view to the rear (hereafter referred to as “covered vehicles”), whether intended for operation in off-road work zones or over the road transportation or hauling.</u></p> <p><u>B. The phrase “obstructed view to the rear” means anything that interferes with the overall view of the operator of the vehicle to the rear of the vehicle at ground level, and includes, but is not limited to, such obstacles as any part of the vehicle (e.g., structural members); its load (e.g., gravel, dirt, machinery parts); its height relative to ground level viewing; damage to windows or side mirrors, etc., used for rearview movement of the vehicle; restricted visibility due to weather conditions (e.g., heavy fog, heavy snow); or work being done after dark without proper lighting.</u></p> <p><u>C. No employer shall use any covered vehicle unless:</u></p> <p><u>1. the covered vehicle has a reverse signal alarm audible above the surrounding noise level,</u></p>
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			<p><u>and</u></p> <p><u>2. the covered vehicle is backed up only when a designated observer or ground guide signals that it is safe to do so.</u></p> <p><u>D. While engaged in signaling activities, the designated observer/ground guide shall:</u></p> <p><u>1. have no other assigned duties;</u></p> <p><u>2. shall not engage in any other activities unrelated to back-up operations other than those related to the covered vehicle being signaled;</u></p> <p><u>3. shall not use personal cellular phones, personal head phones or similar items that could pose a distraction for the designated observer/ground guide; and</u></p> <p><u>4. shall be provided with and wear:</u></p> <p><u>a. during daytime operations a safety vest or jacket in orange, yellow strong yellow green or fluorescent versions of these colors, reflective warning garments; and</u></p> <p><u>b. during nighttime operations a safety vest or jacket with retroreflective material in orange, yellow, white, silver, strong yellow green or a fluorescent version of these colors and shall be visible at a minimum distance of 1,000 feet.</u></p> <p><u>E. No driver of a covered vehicle shall travel in reverse unless they maintain constant visual contact with the designated observer/ground guide. If visual contact is lost, the driver shall immediately stop the vehicle until visual contact is regained and a positive indication is received from the designated observer/ground guide to restart back-up operations.</u></p> <p><u>F. Prior to permitting an employee to engage in any covered activity under this section, the employer shall ensure that each driver of a covered vehicle and each designated observer/ground guide is trained</u></p>
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			<p><u>in the requirements of this section.</u></p> <p><u>G. Refresher training shall be provided by the employer for any driver of a covered vehicle or any designated observer/ground guide when the driver or designated observer/ground guide:</u></p> <ol style="list-style-type: none"> <u>1. has been observed to violate the requirements of this section;</u> <u>2. has been involved in an accident or near miss accident; or</u> <u>3. has received an evaluation that reveals that the driver or designated signaler is not operating under this section in a safe manner.</u> <p><u>H. Covered vehicles with video or similar technological capability to provide the driver with a full view behind the vehicle are exempt from section C.2.</u></p> <p><u>I. Covered vehicles are exempt from section C.2. if the driver visually determines from outside the vehicle that no employees are in the backing zone and that it is reasonable to expect that no employees will enter the backing zone during reverse operation of the vehicle.</u></p> <p><u>J. Covered vehicles that were not equipped with a reverse-signal alarm upon manufacture or were not later retrofitted with an alarm are exempt from section C.1.</u></p> <p><u>K. To the extent that any federal Department of Transportation (DOT) regulation applies to covered vehicles conflicts with this section, the DOT regulation shall take precedence.</u></p> <p><u>Rationale:</u> The new proposed regulation at 16 VAC 25-97 will provide that construction and general industry vehicles, machinery and equipment, whether for operation in off-road work zones or over the road transportation or hauling, shall not be operated in reverse unless the vehicle has a reverse signal alarm audible above the surrounding noise level and the vehicle is backed up only when a designated observer or ground guide signals that it is safe to do so. The phrase “obstructed view to the rear”</p>
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			is defined in the proposed regulation. Requirements are provided for training and retraining of employees engaged in any covered activity.
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