

August 3, 2009

**REVERSE SIGNAL OPERATION FINAL REGULATION FOR CONSTRUCTION AND
GENERAL INDUSTRY TO TAKE EFFECT SEPTEMBER 18, 2009**

The Department of Labor and Industry's Virginia Occupational Safety and Health (VOSH) Program and the Virginia Safety and Health Codes Board have adopted a final regulation for:

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

The final regulation will take effect September 18, 2009, and the text of the final regulation, **along with free downloadable training and information materials** can be found on the Department's Web site (see: <http://www.doli.virginia.gov>). The final regulation is also being published in the Virginia Register of Regulations on August 17, 2009 (see: <http://legis.state.va.us/codecomm/register/issfiles.htm>).

Since 1992, Virginia has averaged two fatal accidents per year (4% of VOSH fatalities) involving reverse operation of construction and general industry vehicles, despite the presence of federal OSHA regulations to prevent such fatalities contained in 1926.601, Motor vehicles; 1926.602, Material Handling Equipment; 1926.952, Mechanical Equipment; and 1910.269, Electric power generation, transmission, and distribution.

The purpose of the new regulation is to provide comprehensive protection to employees and employers exposed to reverse operation traffic of vehicles, machinery and equipment in construction and general industry work areas. Unless otherwise noted, all construction and general industry vehicles with an "obstructed view to the rear" are covered by the new regulation.

The regulation is the result of over three years of work by the VOSH Program and valuable comments and input from employer and employee representatives and associations including (in alphabetical order): AFL-CIO; Associated General Contractors; Branscome Richmond; F. G. Pruitt, Inc.; Heavy Construction Contractor's Association; International Union of Operating Engineers; Plumbers and Pipefitters; Precon Construction Company; Precon Marine, Inc.; Precon Development Corporation; Slurry Pavers, Inc.; Virginia Asphalt Association; Virginia Department of Transportation; Virginia Forest Products Association; Virginia Paving Co.; Virginia Transportation Construction Alliance; Virginia Trucking Association, Virginia Utility & Heavy Contractors Council; and Whitehurst Paving Co.

Virginia Department of Labor and Industry Commissioner C. Ray Davenport expressed the hope that the new regulation will help to eliminate deaths associated with reverse operation of vehicles, machinery and equipment by instituting safer work procedures than are currently present in federal regulation and raising awareness among employers and employees of the hazards associated with reverse operation accidents.

“Our goal is to have every employee return home at night in the same condition they started the day,” said Davenport. “We feel that this measure gets us one step closer to achieving that goal.”

Outreach and Phased Enforcement Approach

To provide employers and employees with sufficient time to familiarize themselves with the requirements of the comprehensive new Reverse Signal Operation regulation, the VOSH Program will use a phased enforcement approach:

1. VOSH Inspectors/Consultants will be provided with handouts on the new regulation that can be distributed to employers and employees in the weeks leading up to the effective date of September 18, 2009. A training program will be posted on the Department's Web site. Articles on the new regulation will be sent out for publication to organizations with newsletters. "Quick cards" will be available for download from the Department's Web site to briefly explain the regulation, and will be translated into Spanish as well. A VOSH Directive with enforcement procedures and interpretations will be posted on the Department's Web site.

2. For the first month after the effective date of the regulation (**September 18, 2009 to October 18, 2009**), VOSH will fully enforce §§ 10, 20 and 30, which contain the basic requirements of the regulation and are similar to current federal OSHA regulations. For §40, which contains requirements for ground guides/designated observers and drivers, VOSH Inspectors will give one "warning" for any noted violations of that section at the specific worksite, but not cite the violation. The VOSH Inspector will verify that the violation is corrected, and note the violation and corrective action taken in field notes. The warning and handout materials need to be provided to an on-site supervisor, foreman, or lead person. If the VOSH Inspector returns the next day and finds the same violation recurring, or if the employer refuses to correct the violation, the employer can be cited.

3. For §50, which contains the training requirements, that section will not be cited during the 30 day phase-in period (**September 18, 2009 to October 18, 2009**). This extra time period will give employers and employees time to access the training materials that are being provided.

4. All sections of the regulation will be fully enforced **starting October 19, 2009**.

Summary of the Regulation

The new regulation will provide that vehicles, machinery and equipment with an “obstructed view to the rear” shall not be operated in reverse unless:

1. the vehicle has a reverse signal alarm audible above the surrounding noise level
and
- 2a. either the vehicle is backed up only when a designated observer or ground guide signals that it is safe to do so, **or**

2b. before operating the covered vehicle in reverse, the driver visually determined that no employee is in the path of the covered vehicle.

- **"Obstructed view to the rear"** is anything that interferes with the view of the driver to the rear of the vehicle at ground level and includes structural members of the vehicle; 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; restricted visibility due to weather conditions (e.g., heavy fog, heavy snow); or work being done after dark without proper lighting.

Work procedures and training requirements are provided for designated observers/ground guides and drivers/operators of covered equipment.

Ground Guides SHALL NOT:

- Do any activities other than those related to the vehicle being signaled;
- Use personal cell phones/head phones, etc., that could pose a distraction;
- Go behind in close proximity to a vehicle while it is backing up.

Ground Guides SHALL:

- Be trained in the requirements of the regulation;
- **Always stay in the line of sight of the vehicle driver while it is backing up;**
- Stay a safe working distance from the vehicle;
- Be provided with and wear during daylight hours a safety vest/jacket in orange, yellow, strong yellow green or fluorescent versions of these colors;
- Be provided with and wear at nighttime a safety vest/jacket with retroreflective material in orange, yellow, white, silver, strong yellow green or a fluorescent version of these colors (visible at a minimum distance of 1,000 feet).

Drivers/Operators SHALL:

- Be trained in the requirements of the regulation; and
- **Not** operate a vehicle in reverse unless they keep constant line of sight of the ground guide. **If visual contact with the ground guide is lost, the driver shall immediately stop** the vehicle until sight of the ground guide is regained and a signal is received from the ground guide to restart back-up operations.

All Employees SHALL NOT:

- Cross the path in close proximity to a vehicle while it is backing up.

Training:

- Refresher training shall be provided for any driver or ground guide when they have violated the regulation, been involved in a reverse operation accident or near miss, **or** received an evaluation indicating they have not been operating under this regulation in a safe manner.

Other Provisions:

- If the reverse signal alarm stops working properly and an immediate fix is not possible, the vehicle shall be either backed-up only when a ground guide signals to do so, **or** taken out of service until the alarm is repaired.
- Covered vehicles that did not have back-up alarm when manufactured or were not later retrofitted with an alarm are exempt from the requirement to have a back-up alarm. If the manufacturer of the covered vehicle offered the employer a back-up alarm retrofit package at a reasonable and economically feasible cost and the employer did not have the retrofit package installed, this exemption does not apply.
- Covered vehicles with operable video or similar technological capability providing the driver with a full view behind the vehicle are exempt from the requirement to use a ground guide.
- To the extent that any federal Department of Transportation (DOT) regulation applying to covered vehicles conflicts with this chapter, the DOT regulation shall take precedence.