



Virginia  
Regulatory  
Town Hall

**Exempt Action Final Regulation  
Agency Background Document**

<b>Agency Name:</b>	Department of Labor and Industry/Safety and Health Codes Board
<b>VAC Chapter Number:</b>	16 VAC 25-85-1904.0 through 16 VAC 25-85-1904.46
<b>Regulation Title:</b>	Recording and Reporting Occupational Injuries and Illnesses
<b>Action Title:</b>	Amendments to Recording and Reporting Occupational Injuries and Illnesses
<b>Date:</b>	October 19, 2001

Where a regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 *et seq.* of the Code of Virginia) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the Code of Virginia) and file the final regulation with the Registrar in a style and format conforming with the Virginia Register Form, Style and Procedure Manual. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

**Note agency actions exempt pursuant to § 9-6.14:4.1(B)** do not require filing with the Registrar a Notice of Intended Regulatory Action, or at the proposed stage. When the regulation is promulgated and submitted to the Registrar, the agency need only provide a statement citing the specific Virginia Code section referencing the exemption and an authority certification letter from the Attorney General's Office. No specific format is required.

This form should be used for actions **exempt from the Administrative Process Act pursuant to § 9-6.14:4.1(C)** at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1(C) of the APA do not require filing with the Registrar a Notice of Intended Regulatory Action, and at the proposed stage.

**Summary**

*Please provide a brief summary of the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation, instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This rulemaking completed a larger overall effort to revise, update and simplify requirements in Part 1904 of Title 29 of the Code of Federal Regulations, dealing with recording and reporting occupational injuries and illness.

Federal OSHA uses the Occupational Injury and Illness Recording and Reporting (“Recordkeeping”) survey results to target federal and state plan compliance officers to the most hazardous work sites as well as to direct its compliance assistance resources in the most efficient manner. With this revision, Federal OSHA has updated its rule on recording and reporting of occupational injuries and illnesses (29 CFR part 1904), including the forms employers use to record those injuries and illnesses. The revisions to the final rule will produce more useful injury and illness records in the following ways: by collecting better information about the incidence of occupational injuries and illnesses on a national basis; by promoting improved employee awareness and involvement in the recording and reporting of job-related injuries and illnesses; by simplifying the injury and illness recordkeeping system for employers; and by permitting increased use of computers and telecommunications technology for OSHA recordkeeping purposes.

Like the former rule, under the new rule employers with 10 or fewer employees would continue to be exempt from most recordkeeping requirements, as are a number of industries classified as low-hazard retail, service, finance, insurance and real estate sectors. The new regulation updates the list of exempted industries. (All employers covered by the Occupational Safety and Health Act must continue to report any workplace incident resulting in a fatality or the hospitalization of three or more employees).

The revised rule also includes a provision for recording needlestick and sharp injuries that is consistent with recently-passed federal legislation requiring OSHA to revise its bloodborne pathogens standard to address such injuries. This provision is expected to result in a significant increase in recordable cases annually.

This regulation is written in plain language uses a question and answer format. For the first time, the regulation uses checklists and flowcharts to provide easier interpretations of recordkeeping requirements.

The effective dates for the following sections have been delayed until January 1, 2003. The provisions delayed are §§1904.10(a)&(b), which specifies criteria for cases involving occupational hearing loss; and 1904.12, which defines “musculoskeletal disorder (MSD)” and requires employers to check the MSD column on the OSHA Log if an employee experiences a work-related musculoskeletal disorder; and the second sentence of 1904.29(b)(7)(vi) covering forms, which states that MSDs are not considered privacy concern cases. The first sentence of §1904.29(b)(7)(vi) is effective on January 1, 2002. The second sentence is effective beginning on January 1, 2003.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

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On October 18, 2001, the Safety and Health Codes Board adopted an identical version of federal OSHA's final rule for the Recording and Reporting Occupational Injuries and Illnesses, Revised Final Rule, §§1904.0 through 1904.46.

The effective date for 16 VAC 25-85-1904.0 through 1904.09, 16 VAC 25-85-1904.10(c), 16 VAC 25-85-1904.11, 16 VAC 25-85-1904.13 through 16 VAC 25-85-1904.28, 16 VAC 25-85-1904.30 through 16 VAC 25-85-1904.46, and all of 16 VAC 25-85-1904.29 except the second sentence of 16 VAC 25-85-1904.29(b)(7)(vi) is January 1, 2002.

The effective date for 16 VAC 25-85-1904.10(a)&(b), 16 VAC 25-85-1904.12, and the second sentence of 16 VAC 25-85-1904.29 (b)(7)(vi) is January 1, 2003.

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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.*

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This action has no impact on the institution of the family or family stability.