



Virginia
Regulatory
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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 25-80-10
Regulation title	Access to Employee Exposure and Medical Records
Document preparation date	June 30, 2004

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 21 (2002) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

The regulation is mandated under both state and federal code and fulfills those minimum requirements. Virginia Code § 40.1 - 22(5) states that "...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 Occupational Safety and Health Act of 1970 (P. L. 91 - 596)".

Since Federal OSHA requires that State Plans be at least as effective as Federal OSHA, Virginia's Access to Employee Exposure and Medical Records must be identical to Federal OSHA's Standard at 29 CFR 1910.1020 - "Access to Employee Exposure and Medical Records," to be considered to be at least as effective as that Federal Standard.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

The alternatives considered for this regulation were whether to retain the existing regulation as promulgated or repeal the regulation and adopt the federal OSHA identical regulation. During the previous regulatory review, the Department established an independent review panel to consider the need for changes or repeal of the regulation. The panel recommended retention of the regulation in its present form. The Board determined that, under its mandate, the agency should retain the regulation unchanged as it is not a burden to employers and provides for retention of first aid records that are often helpful to employers.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received on this regulation during the public comment period which began May 3, 2004. The agency and the Safety and Health Codes Board did not establish an informal advisory group for the purpose of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 21, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation has three goals:

1. Reduce the incidence of material impairment of the health of Virginia workers due to workplace exposure to known hazards.
2. Provide assess to employee records to determine exposure.
3. Protect the public's health, safety and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

The primary goals of this regulation is to provide employees and their designated representatives a right of access to relevant exposure and medical records; and to provide representatives of the Commissioner a right of access to these records in order to fulfill responsibilities under the federal Occupational Safety and Health Act. This access is necessary to yield both direct and indirect improvements in the detection, treatment, and prevention of occupational disease.

The scope and impact of the regulation are limited to the workplace or other such occupational settings and, as such, have no impact on the institution of the family or family stability.

The regulation is clearly written and understandable by the individuals and entities affected.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

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

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

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