

Office of Regulatory Management
Economic Review Form

Agency name	Department of Labor and Industry
Virginia Administrative Code (VAC) Chapter citation(s)	16VAC25-85
VAC Chapter title(s)	Federal Identical Recording and Reporting Occupational Injuries and Illnesses.
Action title	Improve Tracking of Workplace Illness and Injury
Date this document prepared	October 2, 2023 – Updated October 13, 2023
Regulatory Stage (including Issuance of Guidance Documents)	Exempt Action – Final Regulation

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. **You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.**

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

NOTE 1: Federal OSHA requires that state plans adopt an identical or equivalent standard for their federal standard, **29 CFR Part 1904 Improve Tracking of Workplace Injuries and Illnesses**. Federal regulations 29 CFR 1953.4(b) and 1953.5(a)(1) require that State Plans such as Virginia, within six months of the occurrence of a federal program change, adopt identical changes or promulgate equivalent changes which are at least as effective as the federal change. OSHA recently amended this regulation on July 21, 2023 with the changes included in the Summary section with effective date of January 1, 2024.

Va. Code § 40.1-22(5) provides that standards and regulations adopted by the Safety and Health Codes Board “shall be at least as stringent as the standards promulgated by the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596).”

NOTE 2: The Virginia State Plan must adopt an identical standard with sufficient time for the effective date to be January 1, 2024, because employer recordkeeping obligations (e.g., OSHA 300 log use) begin on January 1st of each year.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$202,970.76 (Virginia share of national total annualized costs of \$7,651,818)	(b) Not applicable
(3) Net Monetized Benefit	Not applicable	
(4) Other Costs & Benefits (Non-Monetized)	<p>COSTS:</p> <ul style="list-style-type: none"> - OSHA is amending its regulation to require establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300 and 301 to OSHA once a year. The additional cost to establishments for submitting the OSHA 300 and 301 forms is estimated to be \$136 per year per establishment.* This is not expected to create undue financial burden on the establishments. OSHA anticipates that other changes to the requirements in this final rule will incur non-substantive charges. <p>BENEFITS:</p> <ul style="list-style-type: none"> - Improving the ability of stakeholders, including employees, potential employees, workplace safety professionals, and the public, to make more informed decisions about workplace safety and health using recent establishment-specific, case-specific, injury/illness information. 	

	<ul style="list-style-type: none"> - Improving the quality of data by expanding the type of data collected and getting a larger data set which analysts can use to increase their sample size for studies. - Offering a centralized data repository with expanded access to case-specific and establishment-specific injury and illness data. If each state were to create their own data collection division the endeavor would be costly, inefficient and lack the standardization necessary to compare datapoints across different states and nationally. - Providing more complete information to all interested parties by addressing the problem of information asymmetry in the labor market where the businesses with the greatest problems have the lowest incentive to self-disclose. - Allowing the public to use and benefit from the data by providing online access. - Creating a database that will provide the use of establishment-specific data without having to work under the restrictions imposed by the BLS for use of confidential data, and, - Accessing injury and illness classifications that are not currently available from any other source including the BLS SOII. This primarily applies to case-specific injury and illness data for cases that did not result in days away from work or days of job transfer or restriction.
(5) Information Sources	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Not applicable	(b) Not applicable
(3) Net Monetized Benefit	Not applicable	
(4) Other Costs & Benefits (Non-Monetized)	Not applicable	

(5) Information Sources	Not applicable
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Table 1c: Costs and Benefits under Alternative Approach(es) – EXEMPT ACTION

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Describe the direct costs of this proposed change here. Indirect Costs: Describe the indirect costs of the proposed change. Direct Benefits: Describe the direct benefits of this proposed change here. Indirect Benefits: Describe the indirect benefits of the proposed change.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a)	(b)
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources		

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Describe the direct costs of this proposed change here. Indirect Costs: Describe the indirect costs of the proposed change. Direct Benefits: Describe the direct benefits of this proposed change here. Indirect Benefits: Describe the indirect benefits of the proposed change.	
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$14,687.30 (total cost for Virginia state and local government agencies; Total annualized cost for the final regulation minus Total annualized Private Sector costs)	(b) Not applicable
(3) Other Costs & Benefits (Non-Monetized)	<p>COSTS:</p> <ul style="list-style-type: none"> - No additional costs anticipated beyond those listed in Table 2: (2)(a) above. <p>BENEFITS:</p> <ul style="list-style-type: none"> - Improving the ability of stakeholders, including employees, potential employees, workplace safety professionals, and the public, to make more informed decisions about workplace safety and health using recent establishment-specific, case-specific, injury/illness information. - Improving the quality of data by expanding the type of data collected and getting a larger data set which analysts can use to increase their sample size for studies. - Offering a centralized data repository with expanded access to case-specific and establishment-specific injury and illness data <ul style="list-style-type: none"> o If each state were to create their own data collection division the endeavor would be costly, inefficient and lack the standardization necessary to compare datapoints across different states and nationally. - Providing more complete information to all interested parties by addressing the problem of information asymmetry in the labor market where the businesses with the greatest problems have the lowest incentive to self-disclose. - Allowing the public to use and benefit from the data by providing online access. - Creating a database that will provide the use of establishment-specific data without having to work under the restrictions imposed by the BLS for use of confidential data, and, - Accessing injury and illness classifications that are not currently available from any other source including the BLS SOII. This primarily applies to case-specific injury and illness data for cases that did not result in days away from work or days of job transfer or restriction. 	
(4) Assistance	Not applicable	
(5) Information Sources	Not applicable	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Direct Costs: Describe the direct costs of this proposed change here.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) Not applicable</p>	<p>(b) Not applicable</p>
<p>(3) Other Costs & Benefits (Non-Monetized)</p>	<p>COSTS:</p> <ul style="list-style-type: none"> - The new provisions require most employers to electronically submit the information they have already collected and recorded to OSHA. The electronic submission requirements do not create any additional cost to families. <p>BENEFITS:</p> <ul style="list-style-type: none"> - Improving the ability of stakeholders, including employees, potential employees, workplace safety professionals, and the public, to make more informed decisions about workplace safety and health using recent establishment-specific, case-specific, injury/illness information. - Improving the quality of data by expanding the type of data collected and getting a larger data set which analysts can use to increase their sample size for studies. - Offering a centralized data repository with expanded access to case-specific and establishment-specific injury and illness data <ul style="list-style-type: none"> o If each state were to create their own data collection division the endeavor would be costly, inefficient and lack the standardization necessary to compare datapoints across different states and nationally. - Providing more complete information to all interested parties by addressing the problem of information asymmetry in the labor market where the businesses with the greatest problems have the lowest incentive to self-disclose. - Allowing the public to use and benefit from the data by providing online access. 	

	<ul style="list-style-type: none"> - Creating a database that will provide the use of establishment-specific data without having to work under the restrictions imposed by the BLS for use of confidential data, and, - Accessing injury and illness classifications that are not currently available from any other source including the BLS SOII. This primarily applies to case-specific injury and illness data for cases that did not result in days away from work or days of job transfer or restriction.
(4) Information Sources	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$183,028.96¹ (Virginia share of national total annualized costs for private sector of \$6,900,030).	(b) Not applicable
(3) Other Costs & Benefits (Non-Monetized)	<p>COSTS:</p> <ul style="list-style-type: none"> - The new provisions require most employers to electronically submit the information they have already collected and recorded to OSHA. - Under this new federal final rule, establishments that are classified in certain industries with historically high rates of occupational injuries and illnesses (identified in Appendix B) will be required to electronically submit annually information from OSHA Forms 300 and 301. <p>BENEFITS:</p>	

¹ This is a total of all Virginia businesses. Data for “small business” as defined by the Virginia APA data is not available.

	<ul style="list-style-type: none"> - Improving the ability of stakeholders, including employees, potential employees, workplace safety professionals, and the public, to make more informed decisions about workplace safety and health using recent establishment-specific, case-specific, injury/illness information. - Improving the quality of data by expanding the type of data collected and getting a larger data set which analysts can use to increase their sample size for studies. - Offering a centralized data repository with expanded access to case-specific and establishment-specific injury and illness data <ul style="list-style-type: none"> o If each state were to create their own data collection division the endeavor would be costly, inefficient and lack the standardization necessary to compare datapoints across different states and nationally. - Providing more complete information to all interested parties by addressing the problem of information asymmetry in the labor market where the businesses with the greatest problems have the lowest incentive to self-disclose. - Allowing the public to use and benefit from the data by providing online access. - Creating a database that will provide the use of establishment-specific data without having to work under the restrictions imposed by the BLS for use of confidential data, and, - Accessing injury and illness classifications that are not currently available from any other source including the BLS SOII. This primarily applies to case-specific injury and illness data for cases that did not result in days away from work or days of job transfer or restriction.
(4) Alternatives	Not applicable
(5) Information Sources	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Net Change
16VAC25-85.1904.41	Statutory:		1		1
	Discretionary:		0		0
16VAC25-85 Subpart E – Appendix A	Statutory:		1		1
	Discretionary:		0		0
16VAC25-85 Subpart E – Appendix B	Statutory:		1		1
	Discretionary:		0		0
				Total Net Change of Statutory Requirements:	3
				Total Net Change of Discretionary Requirements:	0

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Length	New Length	Net Change in Length

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).