



# **COMMONWEALTH of VIRGINIA**

*Office of the Attorney General  
Richmond 23219*

**Mark R. Herring**  
Attorney General

202 N. 9<sup>th</sup> Street  
Richmond, Virginia 23219  
804 - 786 - 2071  
804 - 225 - 4541 TDD

## **MEMORANDUM**

**To:** C. Ray Davenport  
Commissioner  
Virginia Department of Labor and Industry

**From:** Joshua E. Laws  
Assistant Attorney General

**Date:** September 28, 2016

**Subject:** Letter of Assurance for Amended Regulations for Reporting to OSHA Fatalities, Hospitalizations, Amputations, and Losses of an Eye As a Result of Work-related Incidents — 16VAC25-85-1904.39

---

I have reviewed the Department of Labor and Industry's proposed Amended Regulations for Reporting to OSHA Fatalities, Hospitalizations, Amputations, and Losses of an Eye As a Result of Work-related Incidents found at 16VAC25-85-1904.39 that was posted on the Virginia Regulatory Town Hall on September 21, 2016. In my view, as counsel to the Department of Labor and Industry, these regulations may be promulgated pursuant to Title 40.1 of the Code of Virginia. Further, I certify that the proposed changes are exempt from the Administrative Process Act under Code of Virginia §§ 2.2-4006(A)(4)(a) and 2.2-4006(A)(4)(c) as they are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved and necessary to meet the requirements of federal law or regulations and they do not materially differ from those required by federal law or regulation.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed regulations.