

Reporting an Accident or the Occurrence of an Occupation Disease

Criteria for reporting an accident or occurrence of an occupation disease to the Commission

1. Why must an accident or the occurrence of an occupation disease be reported to the Commission?
 - It is required by statute pursuant to Virginia Code [§ 65.2-900](#), which states in part, "Every employer shall keep a record of all injuries or deaths of its employees which occur in the course of employment. Within ten days after the occurrence of such injury or death, and knowledge of injury as provided in [§ 65.2-600](#), a report of the injury or death shall be made and transmitted to the Commission by the employer, its representative or, in the case of an insured employer, its insurance carrier, in accordance with regulations adopted by the Commission..."
 - Failure to report the accident or occurrence of an occupational disease may toll the statute of limitations. Where an employer has received notice of an accident or the occurrence of an occupational disease, as required by Virginia Code [§ 65.2-600](#), the employer, its representative or, in the case of an insured employer, its insurance carrier, must file the report of the accident or occupational disease with the Virginia Workers' Compensation Commission as required by Virginia Code [§ 65.2-900](#). If the employer fails to do so, and such conduct operates to prejudice the rights of the employee with respect to the filing of a claim prior to expiration of a statute of limitations otherwise applicable, the statute may be tolled until the accident or occurrence of an occupational disease is reported to the Commission.
 - It allows the employer to provide appropriate medical care and potentially minimize the incapacity and reduce the seriousness of the injury through reporting the injury and providing the panel of three physicians as required by Virginia Code [§ 65.2-603](#).
 - It allows the employer's insurance carrier or claims administrator time to investigate the claim to determine compensability as well as provide an appropriate defense should the claim be denied and proceed to the Commission's hearing docket.

2. What happens if an employer, its representative or, in the case of an insured employer, its insurance carrier, fails to report an accident or occurrence of an occupational disease?

- The employer/carrier will receive notice of a Show Cause hearing to appear before the Commission to show cause why they failed to respond to the Commission's Order.
- The Commission may assess a civil penalty up to \$5,000.00 pursuant to Virginia Code [§ 65.2-902](#):

[§ 65.2-902](#). *Failure to make required reports; civil penalty.*

Any employer who fails to make any report required by the Commission pursuant to this title shall be assessed a civil penalty of not more than \$500 for each failure. If the Commission determines that any such failure is willful, it shall assess a civil penalty of not less than \$500 and not more than \$5,000. The civil penalty herein provided may be assessed by the Commission in an open hearing with the right of review and appeal as in other cases. In the event the employer has transmitted the report to the insurance carrier or third party administrator for transmission to the Commission, the insurance carrier or third party administrator failing to transmit the report shall be liable for the civil penalty.

3. When must an employer or insurance carrier report an accident or the occurrence of an occupation disease with the Commission?

- Within 10 days of knowledge of the accident. If an accident is "minor," then it must be reported within 30 days of knowledge of the accident. A "minor" accident is one which meet none of the following criteria:
 - Lost time exceeds 7 days
 - Medical expenses exceed \$1,000
 - Compensability is denied
 - Issues are disputed
 - Accident resulted in death
 - Permanent disability or disfigurement may be involved
 - A specific request is made by the Virginia Workers' Compensation Commission

4. How should an accident or the occurrence of an occupation disease be reported to the Commission?

- All accidents must be reported to the Commission electronically by EDI.

5. If I suspect fraud is involved, do I still have to report an accident or the occurrence of an occupation disease?

- Yes, all accidents or the occurrences of an occupation disease must be reported, even if you suspect the claim is fraudulent.
- You can report suspected fraudulent claims directly to the Virginia State Police at <http://www.stampoutfraud.com> or by calling their toll-free Fraud hot line 1-877-623-7283