

**Department of State Health Services
Council Agenda Memo for State Health Services Council
December 1, 2011**

Agenda Item Title: Amendment to a rule concerning the reporting and control of occupational conditions

Agenda Number: 3.b

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background:

The Environmental and Injury Epidemiology and Toxicology Unit is responsible for the investigation of reportable occupational conditions. It is located in the Environmental Epidemiology and Disease Registries Section of the Prevention and Preparedness Services Division. The Unit applies the principles of epidemiology, toxicology, and surveillance to identify populations at risk and develops evidence-based actions to protect and promote the health of the people of Texas.

The program:

- conducts surveillance and investigation of hazardous exposures that pose a potential health risk to the public;
- manages two statewide registries;
- collects information on reportable occupational conditions;
- provides epidemiology support and coordinates preparedness activities of the Texas Poison Center Network;
- initiates epidemiological studies of non-communicable diseases and health conditions;
- collaborates on environmental research projects; and
- provides environmental health educational information to the public.

The program receives approximately \$725 thousand in federal funding and approximately \$1.8 million in state general revenue funds.

Summary:

The purpose of the amendment is to provide the public with updated information that reflects current agency names and organizational structure in order to eliminate possible confusion caused by outdated information in the rule. The amendment will also provide accurate information in order to access agency forms.

The proposed amendment updates Unit and Section names to reflect agency re-organization of Division operations, updates agency form numbers, and ensures that the existing rule is up-to-date and necessary in response to Texas Government Code, Section 2001.039.

Key Health Measures:

Cases of reportable occupational conditions, abstracted from surveillance data, are analyzed for trends and are included in epidemiologic studies and investigations leading to strategies for prevention and control. The ability to determine the scope and magnitude of public health problems related to occupational health hazards is dependent upon the information reported on occupational conditions as required by this rule.

The category, reportable occupational conditions, is only one category of reports included in the Legislative Budget Board performance measure (A.1.2) on Health Registries, Information, and Vital Records. The reportable occupational conditions in this rule is asbestosis, silicosis, blood lead levels in persons 15 years of age or older, and acute pesticide poisoning. The cumulative number of reports for these conditions for FY 11 is 39,253.

The data repositories for these conditions are:

- Sentinel Event Notification System for Occupational Risks (SENSOR) Pesticide Incident Data Entry and Reporting (SPIDER), which is a U.S. state-based surveillance program that monitors pesticide-related illness and injury;
- access data base for asbestosis and silicosis; and
- Adult Blood Lead Epidemiology Surveillance (ABLES) database for adult blood lead levels. Adult blood lead levels will be included in the new Lead Registry (Child and Adult Blood Lead Epidemiology Surveillance-CABLES) currently being developed as part of the Health Registries Improvement Project.

Summary of Input from Stakeholder Groups:

The proposed rule changes are minor clean up of business unit names and form numbers. Staff do not expect these changes to be controversial to stakeholders. Stakeholder input will be obtained by posting in the *Texas Register* for a 30-day public comment period.

Proposed Motion:

Motion to recommend HHSC approval for publication of the rule contained in agenda item #3.b

Approved by Assistant Commissioner/Director: Adolfo M. Valadez, M.D., M.P.H. **Date:** 10-28-11

Presenter: John Villanacci, Ph.D., **Program:** Environmental & Injury **Phone No.:** 776-6175
NREMTI, Director **Epidemiology and Toxicology Unit**

Approved by CCEA: Carolyn Bivens **Date:** 11-03-11

Title 25. HEALTH SERVICES
Part 1. DEPARTMENT OF STATE HEALTH SERVICES
Chapter 99. Occupational Diseases
Amendment §99.1

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes an amendment to §99.1 concerning the reporting and control of occupational conditions.

BACKGROUND AND PURPOSE

The amended section complies with Health and Safety Code, Chapter 84, which requires the department to adopt a rule concerning the reporting and control of occupational conditions or diseases which are caused by or are related to exposures in the workplace. The reportable occupational conditions are asbestos, silicosis, blood lead levels in persons 15 years of age or older, and acute pesticide poisoning.

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Section 99.1 has been reviewed and the department has determined that reasons for adopting the section continue to exist because a rule on this subject is needed.

SECTION-BY-SECTION SUMMARY

The amendments to §99.1 update unit and section names to reflect the department's reorganization of division operations. The department's mailing address is corrected to a P.O. Box address and the delivery "by courier" is deleted. Also, the department's Pesticide Poisoning Report form number has been revised.

FISCAL NOTE

Lucina Suarez, Ph.D., Director, Environmental Epidemiology and Disease Registries Section, has determined that for each year of the first five years that the section will be in effect, there will be no fiscal implications to the state or local governments as a result of enforcing or administering the section as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Dr. Suarez has determined that there will be no adverse impact on small businesses or micro-businesses who are required to comply with the section as proposed because their business practices will not be altered.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

In addition, Dr. Suarez also has determined that for each year of the first five years the section is in effect, the public will benefit from the adoption of the section as proposed that will eliminate possible confusion caused by outdated information in the rule.

REGULATORY ANALYSIS

The department has determined that this proposal is not a “major environmental rule” as defined by Government Code, §2001.0225. “Major environmental rule” is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendment does not restrict or limit an owner’s right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043

PUBLIC COMMENT

Comments on the proposal may be submitted to Susan L. Prosperie, Environmental and Injury Epidemiology and Toxicology Unit, Environmental Epidemiology and Disease Registries Section, Division for Prevention and Preparedness, Department of State Health Services, Mail Code 1964, P.O. Box 149347, Austin, Texas, 78714-9347, (512) 776-7269 or by email to Susan.Prosprie@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services, General Counsel, Lisa Hernandez, certifies that the proposed rule has been reviewed by legal counsel and found to be within the state agencies’ authority to adopt.

STATUTORY AUTHORITY

The amendment is authorized by Health and Safety Code, §84.003, which requires rules on the reporting of occupational conditions, and §84.004 which requires the department to prescribe the

form and method of reporting; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001. The review of the rule implements Government Code, §2001.039.

The amendment affects the Health and Safety Code, Chapters 84 and 1001; and Government Code, Chapter 531.

Legend: (Proposed Amendment)

Single Underline = Proposed new language

[Bold Print and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§99.1. General Provisions.

(a) - (b) (No change.)

(c) Reporting requirements.

(1) - (3) (No change.)

(4) The local health authority shall collect the reports and transmit the information at weekly intervals to the Environmental and Injury Epidemiology and Toxicology Unit **[Branch]**, Environmental Epidemiology and Disease Registries Section **[Surveillance Unit]**, Department of State Health Services, Mail Code 1964, P.O. Box 149347, Austin, Texas, 78714-9347 **[1100 West 49th Street, Austin, Texas, 78756]**. Transmission may be made by mail [, **courier,**] or electronic transfer.

(A) If by mail **[or courier,]** the reports shall be placed in a sealed envelope addressed to the attention of the Environmental and Injury Epidemiology and Toxicology Unit **[Branch]**, Environmental Epidemiology and Disease Registries Section **[Surveillance Unit]**, Department of State Health Services, Mail Code 1964, P.O. Box 149347, Austin, Texas, 78714-9347 **[1100 West 49th Street, Austin, Texas, 78756]**, and marked "Confidential Medical Records."

(B) (No change.)

(5) (No change.)

(d) Reportable conditions and information to be reported.

(1) - (3) (No change)

(4) Reports for acute pesticide poisoning shall include all information collected by the reporting person and required to complete the most recent version of the department's Pesticide Poisoning Report Form EF09-11927 **[F09-11625]**.

(e) - (f) (No change.)