Shell Oil Company

One Shell Plaza
P. O. Box 2463
Houston, Texas 77001

R. E. Joyner, M. D.
Corporate Medical Director
Corporate Medical Department
713 241-6359

PLAINTIFF'S EXHIBIT
SH-683

October 7, 1985

J. R. Davis, M.D.
16030 Vista Del Mar
Houston, TX 77083

H. E. Mendell, M.D.
5401 Dashwood - Suite 2-C
Bellaire, TX 77401

N. A. Tadros, M.D.
Kelsey-Seybold Clinic
6624 Fannin
Houston, TX 77030

D. L. Greenlees, M.D.
850 Tower Dr.
Suite 114
Odessa, TX 79761

Dear Doctors:

The attached is forwarded for your information. This new Texas law mandates the reporting of:

1 - Asbestosis
2 - Silicosis
3 - Blood lead levels ≥ 40mcgm/100cc in persons 15 years of age or older.
4 - Acute occupational pesticide poisoning

Please advise the Corporate Medical Department should you have occasion to file such reports.

Very truly yours,

R E Joyner

R. E. Joyner, M.D.

Attachment

cc: Shell Oil Company - HS&E
Head Office
C. E. Ross, D.O.
S. R. Cowles, M.D.
S. A. Bergman, M.D.
R. S. Marnoy, M.D.
D. E. Miller, M.D.
P. F. Deisler, Jr. - info.
H. L. Kusnetz - info.
A. D. Ditmar - info.
Information Svcs. (2)
Deer Park
B. K. Kern, M.D.
J. B. Gross, M.D.

LAM 018960

DPMC-12583

(REV. 5-78)

Shell Oil Company
Interoffice Memorandum

RECEIVED
OCT 4 1985
CORPORATE MEDICAL DEPARTMENT

OCTOBER 3, 1985

FROM: B. F. AURELIUS, ATTORNEY
GENERAL BUSINESS, HEAD OFFICE LEGAL

TO: S. R. COWLES, MEDICAL DIRECTOR
EPIDEMIOLOGY, HEAD OFFICE

SUBJECT: TEXAS OCCUPATIONAL DISEASE REPORTING ACT

If you have any questions on the above, please just give me a call.

BFA:es

UI8527506

LAM 018961

DPMC-12584

# Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 25. HEALTH SERVICES

## Part I. Texas Department of Health

## Chapter 99. Occupational Diseases

### Reporting

### ★25 TAC §99.1

The Texas Department of Health adopts new §99.1, with changes to the proposed text published in the July 26, 1985, issue of the *Texas Register* (10 Texas Register 2399).

The new section implements the requirements of House Bill 2091, Article 19, §3, 69th Legislature, 1985, which authorizes the Texas Board of Health to adopt sections covering the reporting of occupational diseases.

The new section covers definitions, reporting requirements, confidentiality of reports, general control measures for reportable occupational diseases, and the list of reportable occupational diseases. In addition to the occupational diseases listed in House Bill 2091, 69th Legislature, 1985, this new section also contains the occupational disease of acute occupational pesticide poisoning.

Concerning subsection (c)(1) and (2), a commenter suggested that reports of occupational disease should be required within 10 working days of diagnosis. The agency disagrees as this specific requirement would pose a major reporting burden on physicians and other reporters. In recognition of the value of timely reporting, the agency has modified subsection (c)(1) and (2) to include the word "promptly."

Another commenter suggested that forms for reports from physicians and laboratory directors should not be prescribed by the commissioner or his or her designee. The agency agrees and has modified subsection (c)(3) accordingly.

Concerning subsection (d), a commenter suggested that the list of reportable diseases should be expanded to allow investigation into the occupational component of diseases. The agency disagrees, as the intent of the section is to collect information for defined occupational diseases and not for hypothesis generation for diseases with an alleged occupational etiology.

Another commenter suggested that in the case of pesticide poisonings, the name of the chemical and its Environmental Protection Agency registration number also should be included in the initial report. The agency disagrees as this information will be collected in subsequent investigation of cases as necessary.

A commenter also suggested that requirements for reporting of occupational pesticide poisoning should not be limited to acute poisoning, but also should include chronic poisoning cases. The agency disagrees, as it is not possible to define medically a chronic condition or disease which can be causally related to occupational exposure to pesticides.

Another commenter suggested that although reporting is required for four diseases at this time, the agency will expand the list to cover endless reporting requirements. The agency disagrees, as additional occupational diseases to be reported must be approved by the Board of Health and must meet the strict criteria of being occupational, preventable, and having a well known etiology.

Concerning subsection (e)(1)-(3), a commenter asked whether investigations will include hypothesis generating epidemiologic studies. The agency responds that investigations will be of reported cases.

Concerning subsection (f)(2), a commenter suggested that the agency publish, on an annual basis, a summary of the data collected through this reporting process. The agency agrees and has planned to publish such reports, but does not believe that the frequency of reporting should be fixed by section.

A commenter suggested that information on the occurrence of cases of occupational disease required by the section is now already available on the federal level through U.S. Department of Labor data collection systems. The agency disagrees, as the U.S. Department of Labor data collection of occupational injuries and illnesses is limited in its coverage of Texas.

A commenter suggested that there will be fiscal implications. The agency disagrees, as occupational disease reporting will become a part of a well-accepted reporting system for communicable diseases in Texas, which has been in satisfactory operation for many years, without requiring additional resources.

A commenter asked whether reporting will be retroactive prior to the date of adoption of the rule. The agency responds that mandatory reporting will not be retroactive.

A commenter asked whether there will be penalties for nonreporting. The agency responds that the Act does not provide for penalties.

The following groups and associations commented on the proposed rules: Texas Center for Rural Studies, Dow Chemical Company, Monsanto Chemical Company, and the Sierra Club. None of the commenters were against the adoption of the rule; however, the commenters expressed comments about specific parts, raised questions, and made recommendations.

The new section is adopted under Texas Civil Statutes, Article 5182c, §3, which authorizes the Texas Board of Health to adopt rules covering the reporting of occupational diseases.

*§99.1. General Provisions.*

(a) Purpose. This section implements the Texas Occupational Disease Reporting Act, House Bill 2091, 69th Legislature, 1985, which authorizes the Texas Board of Health to adopt rules concerning the reporting and control of occupational diseases.

(b) Definitions. The following words and terms, when used in these sections, shall have the following meanings unless the context clearly indicates otherwise.

(1) Case—A person in whom an occupational disease is diagnosed by a physician based upon clinical evaluation, interpretation of laboratory and/or roentgenographic findings, and an appropriate occupational history.

(2) Commissioner—The commissioner of health.

(3) Department—The Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(4) Local health authority—The chief administrative officer of a public health district or a local health department, or the physician who is to administer state and local laws relating to public health.

(5) Occupational diseases—Those diseases and abnormal health conditions that are caused by or are related to conditions in the workplace.

(6) Reportable occupational disease—Any occupational disease or condition for which an official report is required. See subsection (d) of this section.

(7) Report of an occupational disease—The notification to the appropriate

authority of the occurrence of a specific occupational disease in a human, including all information required by the procedures established by the Board of Health.

(8) Suspected case—A case in which an occupational disease is suspected, but the final diagnosis is not yet made.

(c) Reporting requirements.

(1) It is the duty of every physician holding a license to practice in the State of Texas to report promptly to the local health authority each patient she or he shall examine and who has or is suspected of having any reportable occupational disease. The local health authority may authorize a staff member to transmit reports.

(2) It is the duty of every person who is in charge of a clinical or hospital laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields microscopical, cultural, serological, chemical, or other evidence suggestive of a reportable disease to report promptly that information to the local health authority.

(3) The reporting physician or laboratory director shall make the report in writing. A local health authority may authorize one or more employees under his or her supervision to receive the report from the physician or laboratory director by telephone; use of this alternative, if authorized, is at the option of the reporter. The local health authority shall implement a method for verifying the identity of the telephone caller when that person is unfamiliar to the employee.

(4) The local health authority shall collect the reports and transmit the information at weekly intervals to the Bureau of Epidemiology, Texas Department of Health. 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 Bureau of Epidemiology, Texas Department of Health, and marked "Confidential Medical Records."

(B) If by electronic transmission, including facsimile transmission by telephone, it shall be in a manner and form authorized by the commissioner or his or her designee in each instance. Any electronic transmission of the reports must provide at least the same degree of protection against unauthorized disclosure as those of mail or courier transmission. The commissioner or his or her designee shall, before authorizing such transmission, establish guidelines for establishing and conducting such transmission.

(5) When a case of occupational disease is reported to a local health authority, and the person diagnosed as having the disease resides outside his or her area of local health jurisdiction, the local health authority receiving the report shall notify the appropriate local health authority where the person or persons reside. The department shall assist the local health authority in providing such notifications if requested.

(d) List of reportable occupational diseases. Occupational diseases reportable by name, address, age, sex, race/ethnicity, method of diagnosis, and relevant occupation(s) and employer(s) of the case, and identity of the reporter, are: asbestosis, silicosis, blood lead levels at or above 40 micrograms lead/100 milliliters of blood in persons 15 years of age or older; and acute occupational pesticide poisoning.

(e) General control measures for reportable occupational diseases. The commissioner or his or her duly authorized representative shall, as circumstances may require, proceed as follows:

(1) investigation shall be made for the purpose of verifying the diagnosis, ascertaining the source of the causative agent, obtaining an occupational and employment history and discovering unreported cases;

(2) collection of specimens of the body tissues, fluids, or discharges and of materials directly or indirectly associated with the case, as may be necessary in confirmation of the diagnosis, and their submission to a laboratory for examination;

(3) obtaining samples of air or materials from the current or former business or place of employment of a case, as may be necessary to ascertain if a public health hazard exists. If a hazard is found the commissioner or his/her designee shall make appropriate recommendations concerning the hazard.

(f) Confidential nature of case reporting.

(1) All case reports received by the local health authority or the Texas Department of Health are confidential records and not public records. These records will be held in a secure location and accessed only by authorized personnel.

(2) The department may use information obtained from reports or health records for statistical and epidemiological studies which may be public information as long as an individual is not identifiable.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on September 20, 1985.

TRD-858690 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Effective date: October 11, 1985
Proposal publication date: July 26, 1985
For further information, please call (512) 458-7207.

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## Chapter 205. Product Safety
## Labeling of Hazardous Substances

### ★25 TAC §205.44

The Texas Department of Health adopts new §205.44, with changes to the proposed text published in the July 26, 1985, issue of the *Texas Register* (10 TexReg 2400).

The section is required to implement new Texas Hazardous Substances Act, Texas Civil Statutes, Article 4476-13, §2A, as added by House Bill 1593, 69th Legislature, 1985, requiring the registration of manufacturers and payment of a $150 registration fee by December 1, 1985.

The section covers the registration statement, the procedure for filing it, and procedures for denying, suspending, or canceling the registration statement, along with the annual payment of a $150 registration fee.

One comment was received during the public hearing concerning clarification of the term "retailer" and the registration of retailers. The department agrees with the validity of the comment and has added a separate definition of retailer in subsection (b) to help eliminate any confusion as to the meaning found within the definition of manufacturer as adopted by the 69th Legislature, 1985. Subsection (f)(3) is also amended by adding "however, a retailer must register only one location," to help clarify the fact that each individual retail location does not require a separate registration statement or payment of a separate $150 registration fee.

No written comments were received during the 30-day comment period. Only one comment was received during the public hearing. The comment was from the Texas Retailers Association, was aimed at clarification of a definition, and was not made against the rules.

The new section is adopted under Texas Civil Statutes, Article 4476-13, §2A, as added by House Bill 1593, 69th Legislature, 1985, which establish the $150 registration fee and which requires the Texas Board of Health to adopt a rule to implement §2A.

*§205.44. Registration Fee for Manufacturers of Hazardous Substances.*

(a) Purpose and scope. The Texas Hazardous Substances Act, Texas Civil Statutes, Article 4476-13, was amended by House Bill 1593, 69th Legislature, 1985. The amendment added §2A to the Act, which requires manufacturers of hazardous substances whose products are distributed in Texas to file a registration statement with the department prior to doing business in the state. Section 2A also establishes a registration fee of $150 and requires the Texas Board of Health to adopt rules covering the registration statement, the procedures for filing it, and procedures for denying, suspending, or canceling the registration state-