

28 TAC §120.2.

INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (DWC) proposes to amend 28 TAC §120.2, concerning employer's first report of injury and notice of injured employee rights and responsibilities. Section 120.2 implements Texas Labor Code §404.109.

EXPLANATION. The proposed amendments correct the addresses and websites contained in 28 TAC §120.2 to reflect the correct current addresses and websites of DWC and the Office of Injured Employee Counsel (OIEC). The amendments are necessary to ensure that the information in the rule is current and accurate. The proposed amendments also make updates for plain language and agency style.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Deputy Commissioner for Business Process Tammy Campion has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the section, other than that imposed by the statute. This determination was made because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Deputy Commissioner Campion does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Deputy Commissioner Campion expects that enforcing and

administering the proposed amendments will have the public benefits of ensuring that DWC's rules are current and accurate, which promotes transparent and efficient regulation.

Deputy Commissioner Campion expects that the proposed amendments will not increase the cost to comply with Labor Code §404.109 because they do not impose requirements beyond those in the statute and do not create obligations beyond those in the current rule. As a result, any cost associated with the address and website updates does not result from the enforcement or administration of the proposed amendment.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. DWC has determined that the proposed amendments will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities because the proposed amendments only update addresses and websites and make updates for plain language and agency style. The proposed amendments do not change the people the rule affects or impose additional costs. As a result, and in accordance with Government Code §2006.002(c), DWC is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. DWC has determined that this proposal does not impose a possible cost on regulated persons. As a result, no additional rule amendments are required under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT. DWC has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;

- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

DWC made these determinations because the proposed amendments only update addresses and websites and make updates for plain language and agency style. They do not change the people the rule affects or impose additional costs.

TAKINGS IMPACT ASSESSMENT. DWC has determined that no private real property interests are affected by this proposal, and this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. DWC will consider any written comments on the proposal that DWC receives no later than 5:00 p.m., Central time, on November 25, 2024. Send your comments to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, TX 78711-2050.

To request a public hearing on the proposal, submit a request before the end of the comment period to RuleComments@tdi.texas.gov; or to Texas Department of Insurance, Division of Workers' Compensation, Legal Services, MC-LS, P.O. Box 12050, Austin, TX 78711-2050. The request for public hearing must be separate from any comments. If DWC holds a public hearing, it will consider written and oral comments presented at the hearing.

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STATUTORY AUTHORITY. DWC proposes §120.2 under Labor Code §§404.109, 402.00111, 402.00116, and 402.061.

Labor Code §404.109 provides that the public counsel of OIEC shall adopt, in the form and manner prescribed by the public counsel and after consultation with the commissioner of workers' compensation, a notice of injured employee rights and responsibilities to be distributed by the division as provided by commissioner or commissioner of insurance rules.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

CROSS-REFERENCE TO STATUTE. Section 120.2(e) implements Labor Code §404.109, enacted by House Bill (HB) 7, 79th Legislature, Regular Session (2005) and last amended by HB 673, 81st Legislature, Regular Session (2009).

TEXT.

§120.2. Employer's First Report of Injury and Notice of Injured Employee Rights and Responsibilities.

(a) - (d) (No change.)

(e) The Public Counsel must [~~shall~~] adopt the Notice of Rights and Responsibilities after consultation with the commissioner of workers' compensation [~~Commissioner of Workers' Compensation~~]. Until the Public Counsel adopts any new notice in accordance with Labor Code §404.109, the notice previously adopted under this section will [~~shall~~] remain in effect. A copy of the Notice of Rights and Responsibilities adopted by the Public Counsel will [~~shall~~] be distributed through or provided at:

(1) the department's website at www.tdi.texas.gov [~~www.tdi.state.tx.us~~];

(2) the Office of Injured Employee Counsel's website at www.oiec.texas.gov [~~www.oiec.state.tx.us~~];

(3) The Texas Department of Insurance, Division of Workers' Compensation, 1601 Congress Avenue, Austin, Texas, 78701 [~~7551 Metro Center Drive, Suite 100, Austin, Texas, 78744~~] or any office of the Texas Department of Insurance, Division of Workers' Compensation; or

(4) The Office of Injured Employee Counsel, 1601 Congress Avenue, Austin, Texas, 78701 [~~7551 Metro Center Drive, Suite 100, Austin, Texas, 78744~~] or any office of the Office of Injured Employee Counsel.

(f) - (h) (No change.)

CERTIFICATION. The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on October 10, 2024.



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TDI, Division of Workers' Compensation