



**Billing Code 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

**[Docket No. CDC-2018-0094; NIOSH-321]**

**Infectious Diseases and Circumstances Relevant to Notification Requirements:**

**Definition of Emergency Response Employee**

**AGENCY:** Centers for Disease Control and Prevention, Health and Human Services (HHS).

**ACTION:** Notice of availability and response to comments.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), has added a definition of the term “emergency response employees” to the definitions section of the document entitled “Implementation of Section 2695 (42 U.S.C. 300ff-131) Public Law 111-87: Infectious Diseases and Circumstances Relevant to Notification Requirements.” This list of potentially life-threatening infectious diseases to which emergency response employees may be exposed and companion guidelines has been re-published by the National Institute for Occupational Safety and Health (NIOSH) and is available on the NIOSH website.

**FOR FURTHER INFORMATION CONTACT:** Rachel Weiss, Office of the Director,

NIOSH; 1090 Tusculum Avenue, MS:C-48, Cincinnati, OH 45226; telephone (855) 818-1629 (this is a toll-free number); email *NIOSHregs@cdc.gov*.

## **SUPPLEMENTARY INFORMATION:**

### **I. Statutory Authority**

The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 (Pub. L. 101-381) was reauthorized in 1996, 2000, 2006, and 2009. The most recent reauthorization, the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Pub. L. 111-87), amended the Public Health Service Act (PHS Act, 42 U.S.C. 201-300ii) and requires the HHS Secretary to establish the following: a list of potentially life-threatening infectious diseases, including emerging infectious diseases, to which emergency response employees (ERE) may be exposed in responding to emergencies; guidelines describing circumstances in which EREs may be exposed to these diseases, taking into account the conditions under which emergency response is provided; and guidelines describing the manner in which medical facilities should make determinations about exposures.

In a **Federal Register** notice published on July 14, 2010, the HHS Secretary delegated this responsibility to the CDC Director.<sup>1</sup> The CDC Director further assigned the responsibility to the NIOSH Director and formally re-delegated the authority to develop the list and guidelines to NIOSH on August 27, 2018.<sup>2</sup>

### **II. Background**

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<sup>1</sup> 75 FR 40842.

<sup>2</sup> 83 FR 50379 (October 4, 2018).

On November 2, 2011, CDC published a notice in the **Federal Register** entitled *Implementation of Section 2695 (42 U.S.C. 300ff-131) Public Law 111-87: Infectious Diseases and Circumstances Relevant to Notification Requirements*.<sup>3</sup> The notice included “a list of potentially life-threatening infectious diseases, including emerging infectious diseases, to which EREs may be exposed in responding to emergencies . . . ; guidelines describing circumstances in which employees may be exposed to these diseases; and guidelines describing the manner in which medical facilities should make determinations about exposures.” The list and guidelines published in that notice did not include a definition for “emergency response employee.”

In a request for information (RFI) published in the **Federal Register** on October 17, 2018,<sup>4</sup> CDC solicited input on a definition of “emergency response employee.” In the RFI, CDC explained that Congress included such a definition in earlier iterations of the Ryan White Act but inadvertently omitted it from the current version of the Act. Therefore, interested parties were invited to participate in the RFI by submitting written views, opinions, recommendations, and data regarding the definition of the term “emergency response employee.”

Five submissions were received from the following commenters: two private individuals, a professional organization representing fire chiefs, a union representing emergency response employees, and one city emergency management agency; all commenters were supportive of restoring the definition of “emergency response employee” to the publication. Two commenters asked that the definition offered in the RFI be revised to remove the word “employee;” change “funeral service practitioners” to

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<sup>3</sup> 76 FR 67736.

<sup>4</sup> 83 FR 52454.

“coroner” or “medical examiner;” and add the terms “rescuers” and “emergency management personnel.”

After careful consideration of the requested revisions, CDC has determined that adopting the original statutory definition, without change, in the definitions section accompanying the NIOSH list and guidelines allows the notification provisions to be implemented as Congress originally intended. Further, the definition references “other individuals,” which allows discretion in determining whether individuals who are employed in job categories other than those enumerated can be considered EREs, including the specific groups recommended by the commenters. Therefore, CDC is retaining the definition of “emergency response employee” provided in the RFI:

firefighters, law enforcement officers, paramedics, emergency medical technicians, funeral service practitioners, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

NIOSH has updated the guidelines and list with the ERE definition and has re-published them on the NIOSH Ryan White HIV/AIDS Treatment Extension Act of 2009 topic page, at <https://www.cdc.gov/niosh/topics/ryanwhite/>.

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