



Date: January, 2005

ADA - EEOC - FMLA - FLSA
OSHA - Sexual Harassment
World's Comp - WPA
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The Focus

A Compliance Check Newsletter

OSHA Issues Cold Weather Warning

With the onset of cold weather, OSHA is reminding employers and workers to take necessary precautions, such as those listed on OSHA's Cold Stress Card, to prevent and treat cold-related health problems. Workers in construction, commercial fishing, maritime and agriculture are among those who need to take precautions.

Prolonged exposure to freezing or cold temperatures may cause serious health problems such as trench foot, frostbite and hypothermia. In extreme cases, including cold water immersion, exposure can lead to death. Danger signs include uncontrolled shivering, slurred speech, clumsy movements, fatigue and confused behavior. If these signs are observed, call for emergency help.

OSHA's Cold Stress Card provides a reference guide and recommendations to combat and prevent many illnesses and injuries. Available in English and Spanish, this laminated fold-up card is free to employers, workers and the public. Tips include:

How to Protect Workers

- Recognize the environmental and workplace conditions that may be dangerous.
- Learn the signs and symptoms of cold-induced illnesses and injuries and what to do to help workers.
- Train workers about cold-induced illnesses and injuries.
- Encourage workers to wear proper clothing for cold, wet and windy conditions, including layers that can be adjusted to changing conditions.
- Be sure workers in extreme conditions take a frequent short break in warm dry shelters to allow their bodies to warm up.
- Try to schedule work for the warmest part of the day.
- Avoid exhaustion or fatigue because energy is needed to keep muscles warm.
- Use the buddy system - work in pairs so that one worker can recognize danger signs.
- Drink warm, sweet beverages (sugar water, sports-type drinks) and avoid drinks with caffeine (coffee, tea, sodas or hot chocolate) or alcohol.
- Eat warm, high-calorie foods such as hot pasta dishes.
- Remember, workers face increased risks when they take certain medications, are in poor physical condition or suffer from illnesses such as diabetes, hypertension or cardiovascular disease.

For free copies of OSHA's Cold Stress Card in English or Spanish, go to OSHA's website, www.osha.gov, or call 1(800) 321-OSHA.

Federal Contractor Compliance Advisor

The Department of Labor has recently developed the Federal Contractor Compliance Advisor. This Advisor helps Federal contractors and subcontractors understand basic coverage and compliance information on equal employment opportunity laws and regulations enforced by the Office of Federal Contract Compliance Programs (OFCCP).

The following three equal employment opportunity laws are enforced by OFCCP:

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Executive Order 11246, as amended (E.O. 11246) prohibits discrimination and requires affirmative action to ensure that all employment decisions are made without regard to race, color, religion, sex or national origin.

Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) prohibits discrimination and requires affirmative action in the employment of qualified individuals with disabilities.

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA) prohibits discrimination against specified categories of veterans protected by the Act and requires affirmative action in the employment of such veterans.

OFCCP monitors compliance with these equal employment opportunity laws and their corresponding affirmative action requirements primarily through compliance evaluations, during which a compliance officer examines the contractor's affirmative action program and employment practices. OFCCP also investigates complaints filed by individuals alleging discrimination by Federal contractors and subcontractors on the basis of race, color, sex, religion, national origin, status as a qualified individual with a disability or as a protected veteran.

The Federal Contractor Compliance Advisor is one of a series of elaws Advisors that the Department of Labor (DOL) developed to help employees, applicants for employment, and employers understand their rights and responsibilities under numerous federal employment laws. This Advisor may be found at <http://www.dol.gov/elaws/ofccp.htm>

EEOC settles with Burger King Franchise

The U.S. Equal Employment Opportunity Commission (EEOC) recently announced the settlement of a sexual harassment lawsuit against a Burger King franchise for \$400,000 to be paid to seven female employees

The EEOC's lawsuit under Title VII of the 1964 Civil Rights Act, alleged that in 2000 and 2001, restaurant manager Nathan Kraus subjected the female employees, six of whom were high school students, to repeated groping, vulgar sexual comments, and demands for sex. According to the EEOC, several of the young women complained to assistant managers at the restaurant as well as to a district manager, but no one took action to stop the harassment. None of the female employees had received training on how to make a sexual harassment complaint.

Under the Consent Decree, which still must be approved by the court, Midamerica and Northwest have agreed to pay the victims a total of \$400,000 in damages and attorneys' fees, and have further agreed not to rehire Kraus. In addition, the companies will conduct extensive sexual harassment training for management personnel, including eight hours of training for several upper-level managers, distribute the revised sexual harassment policy and procedure to all restaurant employees, and more prominently post an 800-number hotline for reporting harassment throughout their restaurants.

Lynn Bruner, Director of the EEOC's St. Louis District Office, said, "This lawsuit could have been avoided if assistant managers and others had acted to stop the harassment when they first received complaints about the restaurant manager. We are pleased that the companies will compensate these young victims and provide extensive training to their staff on sexual harassment."

Noting that her office has handled numerous teen harassment cases in recent years, Bruner added, "We hope this case serves as an example of why employers must take prompt, effective steps to respond to employee reports of sexual harassment and other forms of unlawful discrimination, especially as it relates to young workers."