

Employers with eight (8) or more employees ... shall have persons adequately trained to render first aid, and adequate first aid supplies shall be readily available.

KOSH's new interpretation of first aid regs

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In July 2011, the Kentucky OSH Program issued a new Instruction (#01-2011), which sets forth how it will interpret the Kentucky administrative regulation requiring certain employers to have employees on duty who are trained in first aid. The regulation, 803 KAR §2:310, promulgated in 1989, states:

(1) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid, and adequate first aid supplies shall be readily available. Outside salesmen, truck drivers, seasonal labor and others who, while performing their duties, are away from the premises more than fifty (50) percent of the time shall not be included in determining the number of employees.

(2) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. Adequate first aid supplies shall be readily available.

The regulation leaves open to interpretation what the words "within the establishment" in paragraph 1 mean.

In 1996, the Kentucky OSH Program issued an instruction which instructed program staff to count employees on all shifts when determining the number of employees within the establishment.

Under this interpretation, an employer with a total of more than eight employees was required to have an employee trained in first aid on each shift, regardless of the number of employees working on each shift.

In contrast, the July 2011 Instruction directs staff to count only the number of employees per shift in determining if an employer is covered by the regula-

tion. The Instruction gives an example of an employer with a total of twelve employees, eight of whom work on the first shift and four of whom work on the second shift.

This employer is required to have an employee on duty on the first shift who is trained in first aid. However, although this employer has a total of more than eight employees, it is not required to have a trained employee on the second shift, unless there is no infirmary, clinic, or hospital in near proximity to the workplace used for the treatment of injured employees. ▲

Updated whistleblower manual

It's one of a series of measures to improve OSHA's Whistleblower Protection Program — the new edition of its *Whistleblower Investigations Manual*, which contains updates to case handling procedures, information on the new laws enacted since the manual was last updated in 2003, and other information.

It addresses retaliation complaints under the 21 whistleblower statutes that put forth OSHA's responsibilities. Key changes include:

- (1) A requirement that investigators make every attempt to interview the complainant in all cases.
- (2) Clarifies that a complaint under any statute may be filed orally or in writing — in any language.
- (3) OSHA will accept electronically-filed complaints at www.whistleblowers.gov.

An employee who files a complaint with OSHA alleging that the employer has retaliated against him or her must allege that the employer knew about the activity (workplace problem), that the employer subjected the employee to it anyway, and that the activity contributed to the retaliation.

To download a PDF copy of the manual, visit www.osha.gov/pls/oshaweb/owadis.show_document?p_table=DIRECTIVES&p_id=5061. ▲