

OSHA REPORT

A service covering the executive's responsibilities under the new Federal Occupational Safety & Health Act.

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MAN & MANAGER, INC.

799 Broadway, New York, N. Y. 10003

February 1, 1973

- Q. You keep on telling us it's the company's responsibility to see to it that employees comply with safety regulations. We've told this mechanic of ours a hundred times to cover open junction boxes--but that jerk still occasionally neglects to do so. What else are we expected to do?
- A. More than you are doing. In a similar situation, an Administrative Judge said that oral instructions to the employee were not enough, adding: "Obviously, stronger measures were necessary. The employer's failure to take these measures in the interest of protecting its employees places it in violation."

The Dept. of Labor is on record in declaring that "employees who refuse to comply (with OSHA safety standards) may be subjected to whatever disciplinary action the employer deems appropriate."

Use corrective discipline. First, an oral warning--then a written warning. If these fall on deaf ears, give the worker a disciplinary layoff. Finally, discharge--and keep a record of the discipline.

- Q. Let's go one step further. We supply all our workers with personal safety gear. Is it our fault if some of them don't use it--and get nabbed by an OSHA inspector?
- A. It all depends. The law requires the company to "make conveniently available" the protective equipment. It then becomes the employee's obligation to use it. However, OSHA is interested in what steps management takes to see to it the equipment is used.

In one case, the company furnished the protective gear--but gave employees the option of using it or not using it. A citation against the company was upheld on appeal.

- Q. You say we must have a person on duty "adequately trained to render first aid" if there is no hospital, infirmary or clinic "in near proximity to the workplace" (Report 301). How close in miles does that mean?
- A. Darned if we know. The regulations don't specify--but it must be pretty close, judging by a recent decision.

There was one hospital 3-1/4 miles (7 minutes driving time) from the workplace, and another 4 miles away. The Administrative Judge ruled these were not "in near proximity", so the employer was required to have trained first aid personnel on duty.

- Q. Correcting OSHA citations can prove rather costly. Is there any way I can protect myself against incurring such expense?
- A. Lloyd's of London has come out with an "OSHA Compliance Coverage" policy which will pay for the abatement of violations.

However, the policy contains a number of important exclusions: coverage is not afforded for the payment of penalties--there is a deductible--and there are limits of liability.

If you're interested, have your broker explain fully just what coverage is available before you decide to buy.