

U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210



December 3, 1985

Mr. David C. Robinson
Midwest Regional Safety Director
Anchor Motor Freight, Inc.
C.S.5057
Southfield, Michigan 48037

Dear Mr. Robinson:

This is in response to your letter of July 11, 1985, concerning Occupational Safety and Health Administration (OSHA) standards for foot protection and confirms discussions with Janet Sprickman, a member of my staff.

The OSHA regulations pertaining to employee footwear are found at 29 CFR 1910.132 and 1910.136 (copies enclosed). In general, the standard requires that foot protection be used whenever it is necessary by reason of hazard of processes or environment which could cause foot injury. Normally, the employer will determine which, if any, of the employees are exposed to a foot injury hazard. This does not mean that those employees requiring foot protection are required to wear foot protection at all times when working. When employees are exposed to the possibility of foot injuries, foot protection shall be worn. When employees are not exposed to possible foot injuries, foot protection is not required by the OSHA standard, which then becomes solely a matter of employment conditions existing between the employer and the employees, and where applicable, subject to any labor/management contractual agreement.

As discussed, there have been some recent court cases in which judicial interpretation of these requirements indicates that employers who are subject to these regulations must act in a reasonably prudent manner in determining when and how employees, who are exposed to foot injury hazards, are to be protected. In one recent decision, a Federal Appellate Court held that an employer who required its employees to wear sturdy work shoes and made steel-toed footwear available to these employees at a discount, was acting reasonably and was not required to enforce the use of steel-toe footwear. OSHA believes that what is reasonably prudent with regard to foot protection may depend on the frequency, of the employees' exposure to foot injury, the employer's accident experience, the severity of any potential injury that could occur and the customary practice in the industry.