

INFORMATION MEMORANDUM 81-X-22 (REVISED)

TO: All OSH Directors, Supervisors and Field Personnel

FROM: William M. Lybrand, Director of OSH

SUBJECT: Reacting to subpoenas and Legal Questions

DATE: May 1, 1981

The purpose of this memorandum is to establish policy for South Carolina Occupational Safety and Health employees on the proper course of action in the event they are subpoenaed to appear in a legal proceeding.

Any OSH employee served with a subpoena requiring him to appear in court or to testify during litigation shall immediately contact the Assistant Director/OSH Compliance or the Director who in turn will notify the Legal Division, who will determine whether, and to what extent, the OSH employee will be required to comply and will inform the employee of a proper course of action. In general, it will be necessary to comply with the subpoena.

Where time allows, the Legal Division may request that the issuing party withdraw or modify the subpoena, or accept the employee's testimony in deposition form so that he does not have to leave his job to appear physically in court.

In short, if an OSH employee is subpoenaed, he shall immediately contact the Assistant Director/OSH Compliance or the Director, Division of Occupational Safety and Health.

If the subpoena requires the employee to produce agency records, the records will be taken to the Public Information Office where it will be determined whether there is any confidential material in the file. If there is such information, the employee will be provided with a form motion and protective order which he will submit to the judge as soon as the records are mentioned in court. He will abide by the orders of the Judge.