



JobHealth Highlights

Technical Information for Occupational Health and Safety Professionals

Questions & Answers on Employer Payment for PPE

Clifford Frey, CIH
Technical Service Specialist
3M Occupational Health and
Environmental Safety Division.



On November 15, 2007, the Occupational Safety and Health Administration (OSHA) issued a new paragraph to existing standard 29 CFR 1910.132, Personal Protective Equipment. The new paragraph (**h**) Employer Payment for Personal Protective Equipment (PPE) requires employers to provide required PPE at no cost to the employee. The change applies to general industry, construction, shipyard, longshoring and marine terminal workplaces. The following questions and answers are intended to help clarify how the new requirements will impact PPE users.

When does the standard go into effect?

The final rule must be implemented by May 15, 2008. OSHA has acknowledged that many collective bargaining agreements contain language specifying how certain PPE will be paid for by either the employer or employees. By delaying the effective date of the new requirements for 6 months, OSHA is allowing employers and employees time to renegotiate agreements to conform to the new rule.

What PPE is included?

PPE required by OSHA standards or by the employer's worksite hazard assessment (1910.132(d)) must be paid for by the employer. Examples include, but are not limited to:

- Hard hats
- Welding helmets/shields and welding leathers
- Work gloves, when required for hazards such as lacerations, abrasions and chemicals

- Metatarsal guards (metatarsal boots if detachable metatarsal guards are not allowed)
- Specialty footwear, such as steel-toe rubber boots or shoes with non-slip soles
- Specialty prescription eyewear, such as special-use prescription glasses that allow employees to wear respirators
- Respirators required to comply with OSHA standards
- Hearing protection

What is excluded?

Items that are not considered PPE or are not required by OSHA standards.

Examples include clothing/uniforms worn for purposes unrelated to the worker's safety and hand tools.

- Ordinary prescription safety eyewear, except if the employer requires them to remain on-site
- Respirators used under voluntary use provisions of 29 CFR 1910.134
- Non-specialty safety-toe protective footwear, except if the employer requires them to remain on-site
- Flame-resistant clothing
- Clothing or other items used solely for protection from routine weather conditions (coats, gloves, raincoats, sunglasses and sunscreen)
- The replacement of PPE that the employee has lost or intentionally damaged.

Don't employers already have to pay for PPE?

Some specific OSHA PPE standards, such as Respiratory Protection, already require employers to pay for PPE. Others, such as Eye and Face Protection did not. The new paragraph requires employers to pay for all PPE with few, narrowly defined exceptions.

Of the 26 states with state-run OSHA plans, 13 already require payment for most PPE and three states (California, Minnesota, and Puerto Rico) require payment for all PPE. States with state OSHA plans will be required to revise their plans by May 15, 2008 if they do not meet or exceed the new Federal requirements. Employers covered by state OSHA plans should be aware that state PPE requirements, including payment, may be more stringent than Federal requirements. These state plans should be reviewed for information on requirements for PPE selection, use and payment.

Who must pay for contracted employee's PPE?

Contractors are required to pay for their employee's PPE.

Will this standard change the type of PPE that should be worn?

No. Employers are still required to determine the appropriate type and level of PPE for specific work tasks, as outlined in 1910.132 (d), and PPE must still comply with applicable performance requirements such as ANSI Z87 and Z89. However, it is expected that employers will evaluate their PPE purchase options and select those that provide the best overall return on investment. For example, both auto-darkening and passive glass welding helmets may satisfy OSHA requirements. But employers may decide auto-darkening welding helmets offer productivity gains that outweigh the lower purchase price of passive glass helmets.



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What about existing PPE purchased by employees?

If employees prefer to use their own PPE, and the employer agrees, the employer is not required to pay for such equipment. But the employer is still required to assure that the PPE is adequate for the job, including proper maintenance, and sanitation of such equipment.

Who must pay for worn-out PPE and consumable parts?

The employer must pay for the replacement of worn-out or broken PPE and consumable components of PPE (e.g., welding helmet cover plates), except when employees have lost or intentionally damaged the PPE. OSHA does not object to the use of an allowance payment system based on the expected service life of PPE. However, any such system may not shift payment responsibility to the employee in situations where PPE is damaged at work (e.g., accidents) or lasts for a period shorter than the expected service life.

For more information refer to the following:

- 3M Regulation Update #29, Employer Payment for Personal Protective Equipment (www.mmm.com/occsafety)
- Federal Register, Nov. 15, 2007, Employer Payment for Personal Protective Equipment; Final Rule, Vol. 72, No. 220, Pages 64341-64430 (www.osha.gov)



Occupational Health and Environmental Safety Division

3M Center, Building 235-2E-91

St. Paul, MN 55144-1000

U.S.A.

1-800-243-4630

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