

OSHA ISSUES FINAL RULE REQUIRING EMPLOYERS TO PAY FOR PPE

On November 15, 2007, OSHA published a final rule requiring employers to pay for personal protective equipment ("PPE"). Under the new rule, employers are required to pay for any item of PPE that is required by an OSHA standard, unless the PPE falls within a few narrow exceptions.

Examples of items that must be paid for by the employer:

- Hard hats
- Work gloves, when they are required to protect employees from hazards such as lacerations, abrasions and chemicals
- Metatarsal guards, or metatarsal boots if the employer requires them instead of detachable metatarsal guards
- Non-specialty safety-toe protective footwear (steel-toe shoes or boots), but only if the employer does not allow the items to be worn offsite
- Specialty footwear, such as steel-toe rubber boots or shoes with non-slip soles
- Non-specialty prescription eyewear, but only if the employer does not allow the items to be worn offsite
- Specialty prescription eyewear, such as special-use prescription glasses that allow employees to wear respirators
- Special equipment or extraordinary clothing needed to protect employee's from unusually severe weather conditions

Employers do not have to pay for:

- Uniforms, caps, or other clothing worn solely to identify a person as an employee
- Steel-toe shoes or boots and ordinary prescription safety eyewear, provided the items can be worn off the job site
- Shoes or boots with built-in metatarsal protection, as long as the employer provides and pays for detachable metatarsal guards. If the employer requires that the employee wear metatarsal shoes or boots instead of metatarsal guards, the employer must pay for them.
- Logging boots required by 1910.266(d)(1)(v)
- Everyday work clothing. This includes clothing worn for protective purposes, such as blue jeans or long sleeve shirts, as long as the item is not specifically required by an OSHA standard.
- Flame-resistant clothing
- Ordinary clothing, skin creams, or other items used solely for protection from the weather, such as winter coats, gloves, raincoats, and ordinary sunglasses.
- The replacement of any item that the employee has lost or intentionally damaged.

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November 20, 2007

This new rule will go into effect May 15, 2008. In issuing the rule, OSHA has acknowledged that many collective bargaining agreements contain language specifying how certain PPE will be paid for by either the employer or employees. OSHA has explained that workplaces with collective bargaining agreements should be treated no differently under this rule than workplaces without collective bargaining agreements. 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.

If you have any questions about how the new rule will apply at your workplace, please contact:
Carla Gunnin at cgunnin@constangy.com,
Bill Principe at bprincipe@constangy.com,
David Smith at dsmith@constangy.com,
Neil Wasser at nwasser@constangy.com.
Pat Tyson at ptyson@constangy.com, or

Or you may call us at 404/525-8622.

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