

Labor & Employment

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Employers Must Pay For All Personal Protective Equipment – Changes to OSHA Standards

By [Robert Dimling](#), [Andrew R. Kaake](#)

On November 14, 2007, the Occupational Safety and Health Administration (OSHA) announced a new rule clarifying employers' responsibilities for payment of personal protective equipment (PPE). Although employers already pay for approximately 95% of these types of PPE, there were some OSHA standards that were unclear on the issue. The final rule eliminates this confusion by requiring employers to pay for almost all personal protective equipment that is required by OSHA's general industry, construction, and maritime standards.

OSHA estimates that the new rule will reduce workplace injuries, illnesses, and deaths by approximately 21,000 per year. Assistant Labor Secretary Edwin G. Foulke Jr. estimates that the new rule will cost affected employers approximately \$85 million per year, but will save an estimated \$200 million per year in medical and insurance costs.

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It is important to note that the final rule does not create new requirements regarding what PPE employers must provide. It does not require payment for uniforms, items worn to keep clean, or other items that are not PPE. The final rule contains exceptions for certain ordinary protective equipment, such as safety-toe footwear, prescription safety eyewear, everyday clothing and weather-related gear, and logging boots.

The final rule also clarifies OSHA's intent regarding employee-owned PPE, and replacement PPE. It provides that, if employees choose to use PPE they own, employers will not need to reimburse the employees for the PPE. The standard also makes clear that employers cannot require employees to provide their own PPE and the employees' use of PPE they already own must be completely voluntary. Even when an employee provides his or her own PPE, the employer must ensure that the equipment is adequate to protect the employee from hazards at the workplace. It also requires that the employer pay for replacement PPE used to comply with OSHA standards. However, when an employee has lost or intentionally damaged PPE, the employer is not required to pay for its replacement.

The revised standards include 29 C.F.R. §§ 1910.132, 1915.152, 1917.96, 1918.106, 1926.95. The rule provides an enforcement deadline of February 13, 2008, six months from the date of publication. OSHA believes this will allow employers time to change their existing PPE payment policies to comply with the final rule.



If you have any questions about the new revisions to OSHA's PPE rules, or about any safety and health issues, please contact [Robert Dimling](#) or [Andrew R. Kaake](#).

Client Advisory

Continued

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