



OSHA Rules Who Pays for Personal Protective Equipment

Many Occupational Safety and Health Administration (OSHA) health, and safety standards require employers to provide their employees with protective equipment, including personal protective equipment (PPE), when such equipment is necessary to protect employees from job-related injuries, illnesses, and fatalities. The issue of Who Pays for required PPE, the employer or the employee has finally been resolved. The final rule **Employer Payment for Personal Protective Equipment** was issued on November 15, 2007, became effective on February 13, 2008 and had to be implemented by May 15, 2008. Complete details can be found in Federal Register #: 72:64341-64430.

New Final Rule for Clarification

OSHA has issued a new final rule **Clarification of Employer Duty To Provide Personal Protective Equipment and Train Each Employee**. In this rulemaking, OSHA is amending its standards to add language clarifying that the personal protective equipment (PPE) and training requirements impose a compliance duty to each and every employee covered by the standards and that noncompliance may expose the employer to liability on a per-employee basis. This final rule becomes effective on January 12, 2009. This new rule will make sure all standards clearly allow the imposition of a separate violation for each employee for whom an employer fails to equip, train in the use of and pay for the appropriate PPE. Complete details can be found in the Federal Register #: 73:75568-75589.

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["Compliance Duties Owed to Each Employee"](#)

The final rule **Employer Payment for Personal Protective Equipment** lists three reasons for employers to pay for PPE:

1. **The OSH Act Requires Employer Payment** for PPE.
2. **The Rule Will Result in Safety Benefits.**
3. **Clarity in PPE Payment Policy .**

Exceptions

In this rulemaking, OSHA is requiring employers to pay for the PPE provided, with exceptions when equipment is very personal, is often used outside the workplace, and is taken by employees from jobsite to jobsite or employer to employer. The final rule requires employer payment if the employer does not permit the employee to take that equipment off the jobsite.

Examples of PPE and Other Items Exempted From the Employer Payment Requirements:

Non-specialty safety-toe protective footwear (e.g., steel-toe shoes/boots)
Non-specialty prescription safety eyewear
Sunglasses/sunscreen
Sturdy work shoes
Lineman's boots
Ordinary cold weather gear (coats, parkas, cold weather gloves, winter boots).
Logging boots required under Sec. 1910.266(d)(1)(v)
Ordinary rain gear
Back belts
Long sleeve shirts
Long pants
Dust mask/respirators used under the voluntary use provisions in Sec.1910.134.

Electrical Safety Issues

Specific to electrical safety, is the issue

of whether FR clothing should be required. Revisions to 1910.269 **Electric Power Generation, Transmission, and Distribution** are currently being considered by OSHA rulemaking (70 FR 34822-34980, June 15, 2005). The proposed Sec. 1910.269 revision includes FR clothing in the electric utility industry. If OSHA determines in that rulemaking that FR clothing is required, it will then become subject to the PPE payment provisions of this rule, unless the final Sec. 1910.269 and 1926 **Safety and Health Regulations for Construction, Subpart V Power Transmission and Distribution** standards specifically exempt FR clothing from employer payment.

In the final rule voltage rated gloves used to protect workers from the hazard of energized circuits are clearly considered a specialized item that employees are not required to purchase. The 1910.137 standard requires the inspection of gloves before each day's use and the testing of gloves before first issue and every six months thereafter to ensure their continued integrity. Rubber insulating gloves are so critical to the protection of employees that leather gloves are worn over the rubber gloves to prevent damage that could compromise their integrity. Employers are required to provide both rubber insulating gloves and leather protectors at no cost to their employees.

OSHA has concluded that electrically insulating tools, such as pliers, screwdrivers, diagonal cutters and wire strippers, while not considered to be PPE for the purpose of this standard, are a protective control measure and the employer must pay for them.