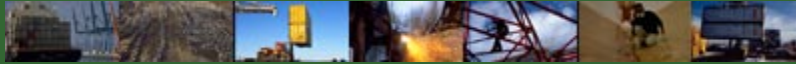




# Supervisors' Safety Update

Ideas and Strategies for Leaders



SSU 2008-02

## PERSONAL PROTECTIVE EQUIPMENT FINAL RULE

*By SeaBright Insurance Loss Control*

**R**emember when an employee's use of hard hats, gloves, safety glasses and other personal protective equipment was inconsistent, and sometimes optional? Many workers considered safety glasses or ear plugs a nuisance and wouldn't wear them. "Tough guys" didn't think they needed hard hats or safety shoes. This situation began to change when OSHA regulations *required* employers to assure "a workplace that is free from recognized hazards...." In order to avoid OSHA penalties, managers began monitoring the use of Personal Protective Equipment (PPE) more closely. Enlightened managers had positive motives as well: they knew that PPE could help prevent costly employee injuries and that caring for worker safety was also good for workforce morale.

Many OSHA standards require employers to provide PPE to their employees when such equipment is necessary to protect the employees from job-related injuries. However, originally many of the OSHA standards didn't indicate whether the employer or the employee was responsible for the cost of the required PPE. With the Final Rule, OSHA clearly spells out that the employer must pay for the required PPE to meet applicable standards and any employer mandated upgrades. The exceptions to this rule are also clearly defined.

### WHY?

A large-scale analysis determined that proper use of PPE could have prevented many of the injuries reported on OSHA 300 logs. Additionally, OSHA determined that standards would be best served if the cost of PPE was placed on the employer because when the employer takes financial responsibility for PPE, they are more likely to ensure it is correct for the job at issue, in good condition, and that employees are adequately protected. When employees are required to pay for their own PPE, many will avoid the costs and not wear the required PPE. The Final Rule does not compel employers to supply PPE where none was required before, and the rule won't dictate what PPE employers must use. The rule for employer PPE only applies when used by an employer to comply with PPE requirements of OSHA standards.

### MULTIPLE JURISDICTIONS

When a company conducts business in different jurisdictions it can be difficult to know what it takes to be in compliance. The Final Rule applies to all employers in general industry, shipyards, longshoring, marine terminals, and construction. The following lists where in the standards the new rule can be found.

General Industry: (29 CFR, Part 1910): A new paragraph (h) is added to 1910.132. Paragraph (h) 1 provides for employer purchased PPE. Paragraphs (h) 2 – (h) 6 list exceptions to rule. Paragraph (h) 7 lists effective dates.

Shipyard Industry: (29 CFR, Part 1915): A new paragraph (f) is added to 1915.152. Paragraph (f) 1 provides for employer purchased PPE. Paragraphs (f) 2 – (f) 6 list exceptions to rule. Paragraph (f) 7 lists effective dates.

Longshore Industry: (29 CFR, Part 1917): A new 1917.96 is added. Paragraph (a) provides for employer purchased PPE. Paragraphs (b) – (f) list exceptions to rule. Paragraph (g) 7 lists effective dates.

Marine Terminals: (29 CFR, Part 1918): A new 1918.106 is added. Paragraph (a) provides for employer purchased PPE. Paragraphs (b) – (f) list exceptions to rule. Paragraph (g) 7 lists effective dates.

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Construction Industry: (29 CFR, Part 1926): A new paragraph (d) is added to 1926.95. Paragraph (d) 1 provides for employer purchased PPE. Paragraphs (d) 2 – (d) 6 list exceptions to rule. Paragraph (d) 7 lists effective dates.

#### **EMPLOYER RESPONSIBILITIES UNDER NEW PPE RULE:**

The rule requires employers to pay for protective equipment including personal protective equipment to comply with OSHA standards, with limited exceptions outlined. Thus if an item is not PPE or not required by OSHA standards, it is not covered under the rule. When another OSHA provision applies to a particular type of PPE, the payment provisions in the specific standard will prevail.

#### **EXCEPTIONS TO THE EMPLOYER PAYMENT RULE:**

1. Non-specialty safety-toe protective footwear and non-specialty prescription safety eyewear, as long as the employer allows the employee to wear these items off the job-site.
2. Everyday clothing such as long-sleeve shirts, long pants, street shoes, and normal work boots.
3. Ordinary skin creams, or any other items used to protect the employee from weather, such as winter coats, jackets, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.
4. Shoes with integrated metatarsal guards that attach to the shoes. The employer is not required to reimburse an employee for shoes or boots with built-in metatarsal protection when the employer provides metatarsal guards and allows the employee, at his or her request, to use those shoes or boots.
5. Logging boots required by certain OSHA regulations.
6. Where an employee provides adequate protective equipment that he or she owns, the employer may allow the employee to use it and is not required to reimburse the employee for that PPE. (Note, the employer cannot require an employee to provide their own PPE).
7. The employer is not required to pay for PPE that an employee has lost or intentionally damaged. An employer does have to pay for PPE that is worn or broken through normal use.

#### **EXAMPLES EMPLOYERS DO NOT HAVE TO PAY FOR:**

- Non-specialty safety-toe protective footwear
- Non-specialty prescription safety eyewear
- Sunglasses / sunscreen
- Sturdy work boots
- 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 masks / respirators used under the voluntary use provisions

#### **EXAMPLES EMPLOYERS DO HAVE TO PAY FOR:**

- Foot protection
- Special boots for longshoremen working logs
- Rubber boots with steel toes
- Shoe covers—toe caps and metatarsal guards
- Non-prescription eye protection
- Prescription eyewear inserts / lenses for full face respirators, welding and diving helmets
- Goggles
- Face shields
- Laser safety goggles
- Fire fighting PPE
- Hard hats
- Hearing protection
- Welding PPE
- Medical / laboratory items used to protect from infectious agents
- Non-specialty gloves. Payment is required if they are used for protection from dermatitis or severe cuts / abrasions. Payment is not required if only used for keeping clean or for cold weather
- Rubber sleeves
- Aluminized gloves
- Chemical resistant gloves / aprons / clothing
- Barrier creams (unless used solely for weather-related protection)
- Rubber insulating gloves

- Mesh cut proof gloves, sleeves, or aprons
- Respiratory protection
- Fall protection
- Ladder ensembles used by linemen (belts and climbing hooks)
- Window cleaner's safety straps
- Personal flotation devices
- Encapsulating chemical suits
- Reflective work vests
- Bump caps
- Clothing for artificially created environments (warehouse freezers or foundries)
- Clothing for some extreme weather conditions (polar exposure)

These examples should not be construed as all inclusive.

#### **OTHER BASIC EMPLOYER RESPONSIBILITIES REGARDING PPE:**

1. Perform hazard assessments of all work areas to determine if hazards requiring the use of PPE are present or are likely to be present. Document that the assessments have been performed.
2. Eliminate hazards, if possible, through engineering or administrative controls.
3. Select PPE that will protect employees if hazards cannot be eliminated.
4. Provide PPE to employees, assuring that it fits properly and giving them a choice if more than one type is available.
5. Conduct and document employee training.

#### **The Written Hazard Assessment:**

A hazard assessment should be completed by each area supervisor. The walk-through survey must identify hazards, which necessitate the use of PPE, including potential for injury caused by:

- Impact operations - sources of motion, falling objects
- Penetration - sharp devices, flying objects
- Chemicals - danger to eyes, hands, skin
- Heat - potential for burns
- Harmful dust - woodworking, buffing, grinding
- Compression/roll over - rolling and pinching
- Light/radiation - welding, cutting, laser beams
- Noise - high and/or constant levels

**Q: How formal must the hazard assessment be?** **A:** Although the term “certification” is used in the standard, extensive, formal documentation is not necessary. You must simply have a record of the assessment so that affected employees and OSHA compliance officers may be provided with assurance that one has been done. Written “certification of the hazard assessment” survey should identify the workplace evaluated, the person certifying that the evaluation has been performed, and the date(s) of the assessment. Hazards that have been identified and PPE that is required for specific work tasks are also to be listed on the form. A selection of sample worksheets for recording this survey can be obtained from your SeaBright Loss Control Consultant.

**Q: What if a company has previously done such surveys?** **A:** Many companies regularly assess workplace hazards according to the trade or occupation of their employees. Previously conducted hazard assessments will qualify for this requirement, *if* the assessment has addressed PPE-related hazards to which employees are exposed in the course of their work. The remaining code requirements, e.g. providing PPE, training, etc., must also be met.

**Q: How often must hazard assessments be done?** **A:** Employers are not required to conduct assessments on a scheduled basis, but if there is a change in technology, production operations or an occupational task that has the potential to affect PPE-related hazards, the employer must review the existing assessment and PPE being used, and make updates as necessary.

#### **Providing and Maintaining PPE:**

In addition to selecting and distributing appropriate protective equipment, companies must ensure that defective or damaged PPE is disposed of and not used. It's recognized, however, that in many situations, PPE can be removed from service, repaired, and then returned to service. Companies must also ensure that used or unsanitary PPE is cleaned and disinfected before it is reissued.

**Q: Must the employer pay for all PPE?** **A:** Employers must pay for any personal protective clothing or equipment, which is required by the company for the worker to do his or her job safely, in compliance with OSHA standards. If the equipment is very personal in nature and useable by workers off the job, see listed exceptions and examples, the employer is not required to pay and may elect to leave the matter of payment to labor-management negotiations.

**Q: What About Employee-Owned Equipment?** **A:** Employers must select PPE that would protect workers from the occupational hazards they are likely to encounter and communicate those selections to *all* employees. Employees who obtain their own PPE must follow the company's selection. Employers are not required to reimburse employees who purchase their own PPE provided the employer provides acceptable alternatives.

**Employee Training Requirements:**

It's important that employees are adequately trained for all the PPE they use--not just "handed" a set of safety glasses, earplugs or a hard hat. Training should be provided initially and when work positions or hazards change. Training must be documented, with sessions to include:

- when PPE is necessary;
- what type is necessary;
- how it is to be worn;
- limitations of the equipment;
- how to maintain and dispose of equipment;
- Demonstrations to verify that the employee understands the instruction given.

**Q: What kind of training documentation is required?** **A:** Training records must include the employee(s) name, date(s) of training and type of training received. It's a good idea to include an agenda on the training record, listing the issues covered in the sessions.

**Q: What if workers were given PPE training before the assessment is done?** **A:** If an employee has been trained prior to the effective date of this standard, by the present or a previous employer, OSHA will accept documentation of this as long as the training effectively communicates the required information. Perhaps the best way to assure that previous training has been effective is to arrange demonstrations of the employees' knowledge and skill. Examples of documentation that may be acceptable include records of previous crew safety meetings, a computer training database, or a tool room log where an employee has checked out PPE. Incorporating this into your New Employee Orientation Checklist is a good idea.

**ANSI STANDARDS PROVIDE PPE GUIDELINES**

This article cannot address specific personal protective equipment to be used in all industries and for all situations--hazards and protective equipment are too varied. Federal and State Codes (which must be at least as stringent as Federal codes) will provide further information. The American National Standards Institute (ANSI) has established requirements for most of this equipment. Many of SeaBright's Supervisor Safety Updates and Safety Meeting Outlines cover PPE topics as well, and SeaBright's Loss Control Consultants are also available as a resource, with advice and guidelines.

If you have a good safety program in place--especially if you have a job-safety analysis for all jobs--it may not be difficult to meet the standard's requirements. You may just have to assess whether you have covered all your hazards, documented your training and communicated all updated safety procedures.

**PREVENTION FIRST--THEN PROTECTION!**

Personal protective equipment will not eliminate hazards or prevent all accidents from happening. PPE can minimize injuries, or at least their severity, but the first step in prevention should be attempts to eliminate the hazard through "re-design" of an operation. Employers have responsibility for assuring optimal worker protection. Supervisors, as key members of the management team, must always be on the lookout for safety. For, in the final analysis, the proper use of PPE relies ultimately on the employee's good judgment and self-protection, which is never a foolproof plan.

*(Note: A sample PPE Hazard Assessment and Certification form follows.)*

