

New OSHA Standard: Employer Payment for Personal Protective Equipment



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On November 14, 2007, Federal OSHA announced its new rule clarifying who is responsible for paying for personal protective equipment (PPE). This new rule, Employer Payment for Personal Protective Equipment; Final Rule - 72:64341-64430, was effective February 13, 2008, and requires complete compliance by May 15, 2008.

This new rule does not change the original 1996 personal protective standard, Personal Protective Equipment for General Industry - 61:19547-19548. Nor does it affect PPE requirements in existing standards. Rather, it is an amendment to the original Personal Protective Equipment for General Industry and has been added as a new paragraph. It does not alter requirements for PPE but *clarifies* who is responsible for payment of certain PPE.

The new Employer Payment for Personal Protective Equipment Final Rule requires employers to pay for almost all PPE required by OSHA's standards for general industry, construction, and maritime activities. Employers must pay for replacement PPE unless the employee has lost or intentionally damaged the PPE.

Employers cannot *require* employees to provide their own PPE but may allow them to do so. If employers allow employees to provide PPE, the employer must ensure that the equipment is adequate to protect the employee from hazards at the workplace. If employees choose to purchase PPE or use PPE they already own, the employer is not required to reimburse the employee.

While this rule requires employers to pay for most PPE, it also specifies certain exceptions. Employers do not have to pay for uniforms, items worn to keep clean, prescrip-

tion safety eyewear, everyday clothing, weather-related gear, safety-toe footwear, and logging boots.

The new rule does not impact PPE requirements of the Bloodborne Pathogen Standard, 1910.1030, the greatest concern for medical offices. The Standard states, "When there is occupational exposure, the employer shall provide, *at no cost to the employee*, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices." (Italics added.)

Under the Bloodborne Pathogen Standard, the employer is also responsible for cleaning, repairing, replacing, and discarding personal protective equipment. Employees must not take PPE home for cleaning or repair! Also, the employer must accommodate employees who may be allergic to the gloves normally used by providing alternatives such as hypoallergenic gloves, glove liners, or powder-free gloves.

Tennessee OSHA, or TOSHA, embraces most federal OSHA regulations, including the new Employer Payment for Personal Protective Equipment and the Bloodborne Pathogen Standard. In TOSHA's "25 Most Cited Standards in Medical Facilities" for 2006 (the most recent available), TOSHA listed three standards that involve personal protective equipment:

➤ 1910.1030 (c)(1)(i)- No Written Exposure Control Plan (which must include personal protective equipment). This Bloodborne Pathogen violation was number 11 on the list.

➤ 1910.133(a)(1) – No Eye or Face Protection Used. This violation of Personal Protective Equipment, Eye and Face Protection, was eighteenth on the list.

➤ 1910.132(d)(1) – No PPE Hazard Assessment Conducted. This violation, number 23 on TOSHA's list, violates the Personal Protective Equipment Standard's General Requirements rule.

At this time, TOSHA inspections in medical offices are primarily complaint driven. However, TOSHA is inspecting hospitals and ambulatory surgery centers for compliance with the safer sharps regulations and may eventually add medical offices to that targeted effort. ■

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