



MEMORANDUM

TO: All Division and Conference Directors
FROM: LaMont Byrd, Director
Safety & Health Department
DATE: November 19, 2007
RE: Personal Protective Equipment

Please be advised that the Occupational Safety and Health Administration (OSHA) recently promulgated a final regulation concerning payment for personal protective equipment (PPE). This final rule covers workers and employers in general industry, shipyards, marine terminals, longshoring, and construction and will be effective on February 14, 2008.

This new rule requires employers to provide all personal protective equipment required by OSHA at no cost to the employees, with the following exceptions:

- Non-specialty safety-toe protective footwear, including steel-toe shoes or boots, and non-specialty prescription safety eyewear, providing that the employer allows the employees to wear the protective gear off the job site;
- Shoes or boots with built-in metatarsal protection, provided that the employer does provide metatarsal guards for use over regular footwear;
- Logging boots;
- Everyday clothing, including long-sleeve shirts, long pants, street shoes, and normal work boots;
- Ordinary clothing or skin creams used solely for protection from the weather, e.g., winter coats, jackets, gloves, rubber boots, sunglasses, and sunscreen; and
- Equipment that is purchased by the employee, provided, that the employer makes available adequate PPE at no cost.

It should be noted that the rule also addresses situations where the employee has lost or intentionally damaged the PPE. In these instances, the employer is not required to pay for replacement PPE. Further, OSHA defines "lost" as including instances where the employer "comes to work without PPE that has been issued to him." In these cases, the employer is not permitted to allow the employee to work without the proper PPE. Because these situations may result in employees being disciplined for failure to have the proper PPE, it would be prudent to address how this aspect of the regulation will be implemented in the workplaces represented by local unions in your respective trade division or trade conference..

If you have questions or would like to further discuss this matter, please feel free to contact my office at (202) 624-6960.

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TEAMSTERS Safety & Health **FACTS**

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PERSONAL PROTECTIVE EQUIPMENT OSHA Regulation Now Requires Employers to Provide at No Cost to Employee

November 14th, 2007

The Occupational Safety and Health Administration (OSHA) of the Department of Labor has issued its final regulations requiring employers to pay for their employees' personal protective equipment (PPE). These regulations come eight years after the rule was first proposed.

This rule will affect occupational safety and health standards for general industry, shipyard employment, marine terminals, longshoring, and construction. The rule will go into effect 90 days from the date of publication of November 14th, 2007 and must be implemented within six months.

General Requirements

Under the new rule, employers are required to provide all OSHA-required PPE at no cost to full- and part-time workers. The standard does not require employers to provide PPE where none has been required before. "Instead, the rule merely stipulates that the employer must pay for required PPE, except in the limited cases specified in the standard," OSHA said.

Employers are obligated under the new rule to pay for replacement PPE, except in situations where the employee has lost or intentionally damaged the equipment. OSHA clarifies that the term "lost" is broadly read. PPE may be considered "lost," for example, even if the employee, in a single instance, "comes to work without the PPE that has been issued to him." In such cases, while the employer cannot allow the employee to work without the PPE the employee may be excused from his shift and the PPE deemed "lost"

thus requiring the employee to pay for a replacement. It is clear that the final rule will allow a single-incident event to result in replacement costs to employees.

The new rule also clarifies that employers can, and should, enforce discipline and work rules to ensure overall compliance with safety initiatives, so long as the discipline is uniform, reasonable, and appropriate. Although these terms are undefined, the accompanying commentary gives examples of “unreasonable” policies, such as imposing a large financial penalty for losing inexpensive PPE, requiring an employee to repay the full cost of a lost PPE item within days of its expected replacement, and applying policies inconsistently across different ranks of employees.

Exceptions to PPE Rule

The limited cases that are exceptions to the rule include:

- ◆ Nonspecialty safety-toe protective footwear, including steel-toe shoes or boots, and nonspecialty prescription safety eyewear, provided that the employer permits those items to be worn off the job site;
- ◆ Shoes or boots with built-in metatarsal protection, provided that the employer does provide metatarsal guards for use over regular footwear;
- ◆ Logging boots;
- ◆ Everyday clothing, including long-sleeve shirts, long pants, street shoes, and normal work boots;
- ◆ Ordinary clothes or skin creams used solely for protection from the weather (i.e. winter coats, jackets, gloves, rubber boots, sunglasses, and sunscreen); and
- ◆ Equipment that is purchased by the employee, provided that the employer makes available adequate PPE at no cost.

Conclusion

The new regulations does not alter in any way the standards for what PPE is required according to §1910.132.

The final rule goes into effect on February 14th, 2008, after which employers have three months-until May 14, 2008-to comply.