

Properly Fitting PPE Should Be At the Top of the “To-Do” List for Construction Employers in 2025

Peter Gillespie
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Recently, the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) published a final rule to require employers subject to construction standards to make available personal protective equipment (PPE) that “properly fits” their employees. Employers now have until **January 13, 2025**, to comply.

OSHA’s amendment to 29 C.F.R. 1926.95(c) mirrors PPE requirements applicable to general industry and has received widespread support. Concerns that individuals who may be smaller than the average adult male will have difficulty with obtaining PPE that fits properly presents a barrier to entry in the workforce. In addition, wearing poorly sized and ill-fitting PPE may create a hazard for the employee themselves or their co-workers. PPE generally needs to fit properly to provide maximum protection against workplace hazards such as falling objects, machinery, electrical risks, respiratory hazards and exposure to hazardous substances. OSHA is concerned that employees wearing PPE do not trip over clothing that is too long, get loose materials caught on moving parts or otherwise end up having difficulty performing assigned tasks safely because ill-fitting PPE is interfering with safe work. Common sense suggests that employees who do not feel comfortable and safe in PPE will be less likely to wear PPE.

Nevertheless, many affected employers remain concerned that the term “properly fits” may, in some cases, be misconstrued to mean that the PPE fits comfortably for all employees. The final rule provides little clarity or factors for employers to consider on what “properly fits” actually means.

Attorneys

Peter J. Gillespie

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Also, PPE that functions and fits as intended may still be uncomfortable for some employees. In response to these concerns, OSHA recommends that employers look to manufacturer and supplier instructions to confirm that PPE fits as intended and is providing the intended protection as a baseline for whether PPE fits properly.

While there is some belief that OSHA's amended PPE rule could be legislatively overturned by the next Congress, construction industry employers should not count on further changes to the amended rule. Rather, employers should begin contacting suppliers and vendors to find sources of equipment that will fit bodies (irrespective of gender) that may be smaller or larger than the average worker. In some cases, acceptable PPE could include adjustable items that are sold as “universal fit” PPE.

On a going-forward basis, employers should consider trainings on the use, adjustment and fit of PPE, as well as regular PPE inspections. By engaging in a regular dialogue with employees, employers may be able to identify situations in which better fitting PPE is needed or address situations in which PPE is worn out or ineffective. Employers should document trainings and inspections to create a record that the employer is on top of making sure that the company is providing PPE that fits and that is effective. By that same token, employers should be documenting concerns about PPE “comfort” or similar issues when the PPE is functional and providing the protection intended by the manufacturer. By offering choices and providing training, construction employers should be well positioned to root out concerns about PPE “fit” before OSHA gets involved.

If you have questions about whether your company is complying with the new OSHA requirements, please contact your servicing Laner Muchin attorney.