

Insights, News & Events

# OSHA PROPOSES REVISED PPE RULE FOR CONSTRUCTION INDUSTRY: HOW SHOULD EMPLOYERS PREPARE?

Insights

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Federal workplace safety officials just announced they are seeking to revise the national Personal Protective Equipment (PPE) standard for the construction industry to explicitly state that PPE must fit each affected employee properly – a proposed change that would require many construction employers to ramp up their workplace safety efforts. OSHA’s proposed revision to the standard announced on July 19 would align the PPE standard for construction with that of general industry and maritime standards, which already explicitly mandate that PPE properly fit workers. What do construction employers need to know about this proposal and what should you do to prepare?

## Overview of Proposed Changes

To justify the proposed change to 29 CFR 1926.95, OSHA noted the critical defenses that PPE provides against hazards, and how ill-fitting PPE not only fails to protect workers but also creates additional hazards for workers. The proposed rulemaking notes the dangers of ill-fitting PPE, including injuries stemming from workers who were wearing oversized gloves or clothing.

The impetus for the proposed rulemaking seemingly stems from the increasing number of constructions

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workers who don't fit into the standard PPE size typically provided. Many safety and health professionals stated that standard-sized PPE typically fails to protect smaller workers, particularly women. With the continued increase in the number females working in the construction industry, the standard size typically offered will be inadequate for many workers.

OSHA emphasized that the proposed language simply clarifies the requirement that PPE must properly fit construction workers. While the current rule doesn't state PPE must properly fit construction workers, the agency asserts that the requirement is already impliedly in place. However, the proposed rule (if finalized) would put to rest any potential misinterpretation.

### **What's Next?**

Comments and hearing requests on the proposed rule must be submitted by September 18. Those interested in submitting comments should reference Docket No. OSHA-2019-0003.

We expect the rulemaking process to continue for several months after the comment period is closed, so you can expect to see the rule finalized – with any changes adopted – by the end of the year or in early 2024.

### **What Should You Do?**

OSHA states that the new language is not expected to increase the cost to employers or compliance burdens. However, that doesn't mean that you should sit back and wait until the rule is finalized before taking steps to come into compliance. What should employers in the construction industry do?

- Prepare as though the proposed revisions will go into effect. While it is possible that the proposal will be derailed, we expect to see some form of this rule soon take effect.

- Evaluate your PPE procurement policies to ensure that there are options for various body types and sizes.
- Ensure checks and balances are in place to make sure employees are wearing appropriately fitted PPE.
- Maintain a method for employees to raise concerns about their PPE, including its fit.

## Conclusion

If you have any questions, contact the author of this insight, another member of our [Workplace Safety Practice Group](#), or your Fisher Phillips attorney for guidance. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information on OSHA issues and the proposed PPE rule.