



OSHA Will Require Construction Employers to Consider Body Type When Providing PPE Starting January 13

Insights

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Construction employers must be ready for a federal safety rule that takes effect on Monday. A major update to the Occupational Safety and Health Administration (OSHA) rules regarding safety and health regulations for the construction industry mandates that employers provide personal protective equipment (PPE) that properly fits workers based on their unique body type. Starting January 13, OSHA will require that employers ensure PPE – such as hard hats, safety harnesses, gloves, and protective footwear – not only is appropriate for protecting against specific job hazards but also fits each worker properly based on their body size and shape. This change, which was announced on December 11, is particularly important given the rising number of women that work in the construction field and the specific challenges that arise when it comes to PPE. What are the key considerations you need to know about and what steps should you take to comply with the new rule?

Quick Background

Proper fit is essential for PPE to function effectively. Only with proper fit can protective equipment provide maximum protection against workplace hazards such as falling objects, machinery, electrical risks, respiratory hazards, and exposure to hazardous substances.

Construction employers have long been required to provide PPE to their employees when necessary due to workplace hazards. But the current rule stops short of an explicit requirement that PPE properly fit each employee. Under the updated rule, which takes effect January 13, OSHA expands the PPE requirements for construction employers and will require that PPE properly fit employees' varying body types.

Key Considerations for Employers

With the updated rule taking effect in just a few days, construction industry employers should consider taking the following actions:

1. **Assess PPE Fit for Each Worker:** Employers should assess the fit of PPE for each worker individually. PPE that is too loose, tight, or ill-fitting can reduce its effectiveness, leading to an increased risk of injury and exposure to the employer. This includes evaluating the fit of all types of PPE, including helmets, gloves, harnesses, vests, boots, and respiratory protection. For

workers with varying body types, including women, employers must ensure that the PPE offered suits different anatomical needs. This means offering and ensuring the fit of smaller-sized equipment for women, and larger-sized equipment to fit larger bodies, regardless of gender.

2. **Provide Gender-Specific PPE Options:** Employers should offer a variety of PPE options to accommodate both male and female workers. This includes making gender-specific PPE available where necessary, as well as ensuring there are properly sized options for workers of all body types. For example, safety harnesses, gloves, and boots must be offered in smaller sizes and adjusted to fit women and workers with smaller body types, addressing long-standing concerns about the discomfort and safety risks caused by ill-fitting gear.
3. **Inspect PPE for Proper Fit and Functionality:** Employers should regularly inspect PPE to ensure that it remains in good condition and fits workers properly throughout its use. You should replace damaged or worn-out equipment immediately to ensure continued protection. Employers are also responsible for ensuring that PPE is properly maintained and adjusted as needed, particularly for workers who may experience changes in body size or shape over time. Notably, a worker's change in body size during pregnancy or after giving birth could trigger your duty to offer varying sizes to accommodate these physical changes.
4. **Provide Training on PPE Usage and Fit:** Employers should provide training to workers on how to properly wear, adjust, and maintain their PPE. This includes educating workers on the importance of proper fit for optimal safety and performance, as well as how to adjust equipment to suit their individual needs. Workers should also be taught to identify when PPE no longer fits properly and how to request replacement or adjustment if necessary.
5. **Document Compliance Efforts and Maintain Records:** Employers should maintain detailed records of their PPE compliance efforts. This includes documentation of PPE assessments, inspections, training sessions, and any instances where PPE was replaced or adjusted for fit. Keeping clear records will ensure that employers are prepared for potential OSHA inspections and audits and demonstrate your commitment to maintaining a safe workplace.
6. **Ensure Inclusivity and Accessibility:** Employers should ensure that their PPE accommodations are inclusive, offering options that cater to workers with specific needs, such as those with disabilities. This includes ensuring that protective gear is accessible to all workers, regardless of gender, size, or other factors.

Impact on Women in Construction

Although the rule applies to all workers, the update is particularly impactful for women working in construction, a historically male-dominated industry. With women representing an increasing share of the workforce in this field, the update addresses the longstanding issue that many women in the industry have faced: PPE that is ill-suited for their body types.

Much of the equipment traditionally designed for male workers is too large, bulky, or poorly adjusted for women's smaller body frames or body types. This can result in discomfort, difficulty

performing tasks, and, in some cases, decreased protection due to improper fit.

The ill-fitting equipment can become a hazard itself. Improperly fitted equipment may also discourage employees from using it altogether, which can lead to further hazards and penalties assessed against the employer. OSHA's updated rule addresses this by requiring employers to ensure that PPE fits properly so that it is actually effective.

The rule represents a significant shift towards greater gender inclusivity in safety practices as women in construction have long voiced concerns about standardized PPE. Comments submitted during the public rulemaking process emphasized how ill-fitting gear is a barrier to both safety and gender equality in the industry. The fact that OSHA addressed these concerns in the final rule is seen as a positive step toward ensuring that women are not overlooked when it comes to safety standards.

Looking Forward

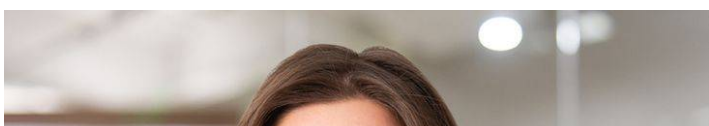
Going forward, the challenge for employers may be more than just the increased cost associated with supplying various sizes and styles of PPE to accommodate a diverse-bodied workforce. The standard does not define "proper fit," which may lead to confusion or disagreement regarding whether an employer has provided the required PPE and whether it truly fits the employee's unique body type.

OSHA's final rule remarks that a "proper fit" should be comfortable to the employee, which raises questions about whether a simple complaint that an employee is "uncomfortable" in their PPE means the employer must provide alternatives. Since some PPE is inherently uncomfortable because of its design, a good rule of thumb is for employers to look to the manufacturer's instructions and recommendations for guidance on how a particular item should properly fit the employee. If there are no such instructions, assess whether the standard PPE supplied to the worker creates additional safety and health hazards simply because it is ill-fitting. If so, then consider offering a different size or style.

Conclusion

We will monitor developments in this area and provide updates as warranted. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. If you have any questions, contact the author of this Insight, your Fisher Phillips attorney, or any member of our [Workplace Safety](#) or [Construction Industry](#) groups.

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