

In our *October 2007 Pooling Risk Control Bulletin, "Work Zone Safety,"* we discussed the Federal Highway Administration's High Visibility mandate scheduled to take place in November, 2008, which will institute new worker visibility provisions and the various types of garments needed to meet the requirements outlined in the mandate.



Further to that, on November 14, 2007 the Occupational Safety and Health Administration (OSHA) announced a new rule clarifying the employer/employee payment responsibilities for personal protective equipment (PPE).

- The final rule requires employers to pay for almost all personal protective equipment that is required by OSHA's general industry, construction and maritime standards. Employers already pay for approximately 95% of these types of PPE.
- This action creates a clear and consistent policy across OSHA's standards, reducing confusion about the items for which employers are required to pay, and it reduces workplace injury, illness and death – OSHA estimates that the rule will result in 21,000 fewer injuries per year.
- This rule does not create new requirements regarding what PPE employers must provide. It does not require payment for uniforms, items worn to keep clean or other items that are not PPE.
- The final rule contains exceptions for certain ordinary protective equipment,

such as safety-toe footwear, prescription safety eyewear, everyday clothing and weather-related gear, and logging boots.

- This rule also clarifies OSHA's intent regarding employee-owned PPE and replacement PPE.
 - It provides that, if employees choose to use PPE they own, employers will not need to reimburse the employees for the PPE. The standard also makes clear that employers cannot require employees to provide their own PPE, and the employee's use of PPE they already own must be completely voluntary. Even when an employee provides his or her own PPE, the employer must ensure that the equipment is adequate to protect the employee from hazards at the workplace.
 - It also requires that the employer pay for replacement PPE used to comply with OSHA standards. However, when an employee has lost or intentionally damaged PPE, the employer is not required to pay for its replacement.
 - The rule provides an enforcement deadline of six months from the date of publication to allow employers time to change their existing PPE payment policies to comply with the final rule. Employers must implement the PPE payment requirements no later than May 15, 2008.

For more information, contact Occupational Safety & Health Administration, 200 Constitution Avenue, NW, Washington, DC 20210 <http://www.osha.gov/briefing.html>.