

DATES: This final rule becomes effective on February 13, 2008. The final rule must be implemented by May 15, 2008.

PART 1926--[AMENDED]

1. The authority citation for subpart E of 29 CFR part 1926 is revised to read as follows:

Authority: Section. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Sections. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 5-2002 (67 FR 65008), or 5-2007 (72 FR 31160) as applicable; and 29 CFR Part 1911.

2. A new paragraph (d) is added to Sec. 1926.95, to read as follows:

Sec. 1926.95 Criteria for personal protective equipment.

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(d) Payment for protective equipment. (1) Except as provided by paragraphs (d)(2) through (d)(6) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, shall be provided by the employer at no cost to employees.

(2) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.

(3) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.

(4) The employer is not required to pay for:

(i) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or

(ii) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

(5) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(6) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (b) of this section, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment. The employer shall not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by paragraphs (d)(2) through (d)(5) of this section.

(7) This section shall become effective on February 13, 2008.

Employers must implement the PPE payment requirements no later than May 15, 2008.

Note to Sec. 1926.95(d): When the provisions of another OSHA standard specify whether or not the employer must pay for specific equipment, the payment provisions of that standard shall prevail.

Table XI-1.--OSHA Standards that Require PPE
 29 CFR 1926, Safety and Health Regulations for Construction

1926.28.....	Personal protective equipment.
1926.52.....	Occupational noise exposure.
1926.55.....	Gases, vapors, fumes, dusts, and mists.
1926.57.....	Ventilation.
1926.60.....	Methylenedianiline.
1926.62.....	Lead.
1926.64.....	Process safety management of highly hazardous chemicals.
1926.65.....	Hazardous waste operations and emergency response.
1926.95.....	Criteria for personal protective equipment.
1926.96.....	Occupational foot protection.
1926.100.....	Head protection.
1926.101.....	Hearing protection.
1926.102.....	Eye and face protection.
1926.103.....	Respiratory protection.
1926.104.....	Safety belts, lifelines and lanyards.
1926.105.....	Safety nets.
1926.106.....	Working over or near water.
1926.250.....	General requirements for storage.
1926.300.....	General requirements (Hand and power tools).
1926.302.....	Power-operated hand tools.
1926.304.....	Woodworking tools.
1926.353.....	Ventilation and protection in welding, cutting and heating.
1926.354.....	Welding, cutting and heating in way of preservative coatings.
1926.416.....	General requirements (Electrical).
1926.451.....	General requirements (Scaffolds).
1926.453.....	Aerial lifts.
1926.501.....	Duty to have fall protection.
1926.502.....	Fall protection systems criteria and practices.
1926.550.....	Cranes and derricks.
1926.551.....	Helicopters.
1926.605.....	Marine operations and equipment.
1926.701.....	General requirements (Concrete and masonry construction).
1926.760.....	Fall protection (Steel erection).
1926.800.....	Underground construction.
1926.951.....	Tools and protective equipment.
1926.955.....	Overhead lines.
1926.959.....	Lineman's body belts, safety straps, and lanyards.
1926.1053.....	Ladders.
1926.1101.....	Asbestos.
1926.1126.....	Chrome (IV).
1926.1127.....	Cadmium.
