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ALERT

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OSHA Issues Final Rule on Employer-Paid Protective Equipment

On November 15, 2007, the Occupational Safety and Health Administration (OSHA) announced the publication of its final rule on employer-paid personal protective equipment (PPE). Under the rule, employers are required to provide employees with all PPE required to comply with OSHA's PPE standards, at *no cost* to the employee. Employers also must pay for replacement PPE, unless the PPE has been lost or intentionally damaged by the employee.

There are, however, certain exceptions to the rule. For instance, employers are not required to pay for certain types of PPE, such as non-specialty safety-toe protective footwear, non-specialty prescription safety eyewear, everyday clothing (such as long-sleeve shirts, long pants, street shoes and normal work boots), or items used solely for protection from weather (such as winter coats, gloves, rubber boots, hats, ordinary sunglasses and sunscreen).

Similarly, employers are not required to reimburse employees for adequate PPE that the employees own and provide. Employers may not, however, require employees to provide or pay for their own PPE, unless the PPE is subject to an exception to the rule. Notably, even where an employee provides his or her own PPE, employers must ensure that the equipment is adequate to protect employees from

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workplace hazards.

The rule takes effect February 13, 2008, but employers are being provided with six months from the November publication of the final rule (*i.e.*, until May 15, 2008) to change their existing PPE payment policies to accommodate the final rule.

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If you have any questions regarding the application of the new PPE rule or any other OSHA regulation to your workplace, please contact Mintz Levin's Workplace Safety and Health Group:

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