

# PUBLICATION

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## OSHA Issues New Enforcement Guidance on Protective Clothing for Oil and Gas Drillers

February 17, 2013

**OSHA issued a new guidance document in December regarding the use of personal protective equipment (PPE) by oil and gas well workers. This document was posted this month on OSHA's website.**

In the revised memo, OSHA clarified that its 2010 memo that suggested employers would be cited for a violation of the PPE standard whenever workers were not wearing flame-resistant and fire-retardant clothing was not the intent of the 2010 memo.

OSHA stated that employers would only be cited if OSHA could additionally prove that a reasonable person would recognize the existence of a hazardous condition that would require the use of PPE. Although this is not a change from the typical case law analysis for the PPE standard, it is a shift in OSHA's enforcement position regarding the use of PPE specific to the oil and gas industry.

This new enforcement position was taken as the result of a ruling by a Federal Occupational Safety and Health Review Commission Judge in June 2012 that vacated a PPE citation issued to an employer in the oil and gas industry (*Secretary of Labor v. Petro Hunt, LLC, OSHRCJ, No. 11-0873, 6/6/12*). In that case, the Judge ruled that the 2010 memo was impermissible rulemaking by OSHA. OSHA's newly clarified position is an attempt to deflect the Judge's ruling that the memo was rulemaking on the part of the agency.