

continued from previous page

The directive includes two tables to explain the payment requirements:

- Examples of PPE for which Employer Payment is Required When Used to Comply with an OSHA Standard and
- Examples of PPE and Other Items Exempted from the Employer Payment Requirements.

Paying for Replacement PPE

You must provide replacement PPE at no cost to the employee except when the employee has lost or intentionally damaged the PPE. This exception even applies if it's a single instance of lost PPE. The directive states that you can consider PPE to be lost if the employee comes to work without it.

To cut down on lost PPE, the directive clarifies that you may require the PPE you've provided to remain at the work site in lockers or other storage facilities. If you do allow employees to take PPE off of the job site, you still initially must provide the required PPE at no cost to employees. In addition, the rule doesn't prohibit you from sending employees home to retrieve the PPE or from charging an employee for replacement PPE when the employee fails to bring the PPE back to the workplace.

If you do allow an employee to voluntarily use appropriate PPE that he already owns, you cannot force the employee to also provide his own replacement PPE. When it's time to replace employee-owned PPE, it's likely that you'll provide and pay for it.

PPE Policies

You're free to develop and implement workplace rules, such as reasonable and appropriate disciplinary policies, replacement schedules and allowances, to ensure that employees have and use the PPE you've provided.

The directive includes many sample citation scenarios for violations of the employer payment requirements, and it has a section on PPE payment questions and answers that you may want to review.

PPE probably is a large part of your safety budget. The use of PPE readily is apparent during an OSHA inspection, and CSHOs are concerned that it's being used properly. Recent changes to PPE rules have prompted OSHA to update the instructions that CSHOs follow when they evaluate compliance with PPE requirements. You can consider these same instructions as you implement your PPE program. OSHA's compliance directive, 29 CFR Part 1910, Subpart I, Enforcement Guidance for Personal Protective Equipment in General Industry (CPL 02-01-050) is available on OSHA's Web site at http://www.osha.gov/OshDoc/Directive_pdf/CPL_02-01-050.pdf.

Thanks to EHS Today, Jan 5, 2012 by Judie Smithers. Judie Smithers is an editor, workplace safety, with J. J. Keller & Associates Inc., Neenah, Wis.; (800) 558-5011; <http://www.jjkeller.com>.

Perc Exposure Standards: Air and Groundwater for a Frame of Reference

by Donald P. Gallo, Esq., Reinhart Boerner Van Deuren s.c.

In February 2012, USEPA posted the final health assessment for tetrachlorethylene/perchloroethylene (perc) to its Integrated Risk Information System (IRIS) as a "likely human carcinogen." In May 2012 the EPA is expected to revise its regional screening level for the vapor action level (VAL) and for indoor air up to 41 micrograms per cubic meter from the current standard of 4.1 micrograms per cubic meter. Most states have vapor guidance or vapor regulations, which will incorporate this new standard. This is a 10-fold increase in the permissible vapor exposure standard.

This article is to draw your attention to another standard that is being considered by EPA and that is the maximum contaminant level, (MCL). The MCL is a set of enforceable primary standards applicable to public drinking water systems and which are also incorporated in most state codes for the applicable groundwater enforcement standards (ES). The current perc MCL is 5 ppb and the EPA is considering lowering this standard to 0.05 ppb, a 100-fold decrease in the groundwater clean-up level. Several trade associations including the Halogenated Solvents Industry Alliance and the national dry-cleaning associations are challenging the need to revise this perc MCL. Most states incorporate a natural attenuation or a risk-based approach to ground water cleanup and if the contaminant plume concentrations are shown to be stable or decreasing the state regulatory agencies will grant case closure even though the enforcement standard (ES/MCL) has not been achieved. In theory the effect on perc case closures under groundwater natural attenuation or a similar risk-based approach should not be affected; however, the states may scrutinize perc case closure requests due to the new standard.