

OSHA Reiterates Stance on Cloth Face Coverings and PPE

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In a statement released November 18, 2020, the Occupational Safety & Health Administration (OSHA) reiterated its long-held stance that standard cloth face coverings – those now used daily by millions of Americans, both in and out of the workplace – do *not* constitute "personal protective equipment" (PPE) subject to OSHA's regulations and standards. The statement comes after the Centers for Disease Control and Prevention (CDC) issued a November 10th brief indicating that the use of cloth face coverings may provide both personal protective benefits against COVID-19 and help prevent community spread.

Importantly, OSHA's statement does nothing to change its stance regarding cloth face coverings and PPE. OSHA is **not** discouraging the use of cloth face coverings and, instead, is reiterating only that these coverings are not currently subject to OSHA's PPE standards. OSHA continues to strongly recommend that employers encourage employees to wear cloth face coverings to help prevent the spread of COVID-19 in the workplace.

Distinguishing PPE and Cloth Face Coverings

PPE is equipment worn to minimize exposure to a variety of safety hazards. Common examples include hard hats, safety glasses, steel-toed boots, and ear plugs. OSHA's PPE standard – 29 CFR § 1910.132 – requires employers to provide their employees with proper PPE whenever there are hazards in the workplace that could potentially cause employees injury or impairment. Typically, to be considered PPE subject to the standard, OSHA only recognizes protective equipment that is designed and constructed to meet consensus industry standards. This is where PPE and cloth face coverings diverge.

Unlike standardized PPE, such as surgical masks and respirators, cloth face coverings come in many different varieties, materials, and designs – some of which are even homemade – and they have no

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consensus standard that would allow them to be categorized as "personal protective equipment." Therefore, while OSHA recognizes ongoing efforts to develop an ASTM standard for the design and performance of cloth face coverings, at least for now, these coverings do not fall within OSHA's PPE standard.

Cloth Face Coverings Still Encouraged in the Workplace

Despite its continued stance on PPE, OSHA maintains that employers should encourage employees to use cloth face coverings. The Agency recognizes that, consistent with CDC guidelines, these coverings may serve as a feasible means of controlling the spread of COVID-19 in the workplace when combined with additional health and safety measures, such as social distancing and self-quarantine policies.

Further, even though cloth face coverings are not PPE, OSHA's General Duty Clause still requires that employers furnish to employees a workplace that is free of recognized hazards that are causing or are likely to cause death or serious physical harm. OSHA has indicated that it may cite employers who knowingly expose employees to hazards associated with COVID-19 under the General Duty Clause. Employers are, therefore, encouraged to adopt the recommended measures, including those related to cloth face coverings, to minimize employee exposure to COVID-19.

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