

# US DOL Finalizes PPE Proper Fit Rule To Protect Site Workers from Hazards

WASHINGTON – The U.S. Department of Labor announced recently that its Occupational Safety and Health Administration had finalized a revision to the personal protective equipment standard for construction. The final rule explicitly requires the equipment to properly fit any construction worker who needs it, improving protections from hazardous conditions.

The revision to the standard adds specific language requiring that employers provide PPE that properly fits construction industry workers. The change aligns the construction industry standard with the standard already in place for general industry.

“I’ve talked to workers in construction, particularly women, who have spoken of personal protective equipment that didn’t fit or was simply unavailable at the jobsite in their size,” said Assistant Secretary for Occupational Safety and Health Doug Parker. “PPE must fit properly to work. I’m proud of the broad support from both employers and unions for OSHA’s efforts to make clear that employers must provide the right PPE for each worker who needs it.”

Many types of personal protective equipment must be sized to fit a worker properly. Improperly



sized PPE can be ineffective in protecting workers by creating new hazards such as oversized gloves or protective clothing being caught in machinery and discouraging use because of discomfort or poor fit. The matter has been a longstanding industry safety concern, particularly among some women as well as among physically smaller or larger workers, OSHA officials stated.

The American Road and Transportation Builders Association reported that the new rule will take ef-

fect on Jan. 13. The new rule was created to address problematic sizing options for people who are smaller or larger than standard PPE designs. Employers must ensure that PPE, such as high visibility clothing, hard hats, gloves, safety harnesses, and protective footwear, fits each worker’s body type.

While ARTBA stated that it favors many aspects of the rule and supports its general intent, the association raised concerns as part of the broader Construction Industry Safety Coalition (CISC) about lack of clear guidance on how to determine proper fit. The CISC warned that this gives OSHA compliance officers broad discretion without allowing contractors to know in advance if they are meeting the standard’s requirements.

The National Association of Home Builders joined the Construction Industry Safety Coalition in submitting comments when OSHA first proposed the change in 2023, seeking clarification on how the agency intends to enforce the proposed changes and calling for additional guidance as well as clearer definitions of such terms as “appropriate size,” “provides necessary protection” and PPE creating “additional safety and health hazards.” ■

## Albany Update

# NYS Workers’ Comp Rates Decline in 2025

By KEN FUIRST, MBA, CLU, CAP

ALBANY — Employers in New York State have enjoyed a steady decline in Workers’ Compensation rates over the last few years, with contractors in a State Fund Safety Group probably seeing an even larger decrease in their insurance costs. Among the reasons are:

- Eliot Spitzer’s Workers Compensation Reform Accord of 2007. It takes years for changes in laws to trickle down and make an impact. Especially in this case where annual Workers Compensation rates are driven by actuarial data of claims costs. Therefore, the NY Workers Compensation Board needs to see actual reduction in WC claims costs before it lowers the rates. The 2007 law placed a 10-year cap on most Permanent and Partial WC claims.

Prior to this cap, injured employees could be paid lost income for the rest of their lives, leaving no incentive to return to work. This law has helped significantly lower the cost of a WC claims in the state.

- NY Labor Law 240/241- Scaffold Law. This terrible law drives up liability insurance rates for contractors in the state and it has an indirect impact on Workers’ Compensation rates. The multi-million-dollar settlements from these liability cases typically include a requirement to repay the Workers’ Compensation Insurance Company for the WC claim expenses.

- Part of NY Workers’ Compensation Premiums is a Charge for the NY Assessment. The Assessment supports several special funds, including

one that compensates volunteers who were injured or disabled during the World Trade Center rescue, recovery, or clean-up; one that reimburses insurers for certain claims for permanently partially disabled persons; and one that pays benefits for old claims that are reopened. The assessment rate has been steadily declining in recent years, largely due to an accelerating runoff of special fund liabilities. It has gone down more than 40% since 2019, when the assessment rate was 12.6%.

- NY State Insurance Fund Safety Groups. These include the one run by our organization that have benefited from these decreases in claims costs. This has resulted in the safety group’s increasing the upfront group premium discounts and year-

end dividends distributed by the groups, thereby significantly reducing costs for members.

- Increased Focus on Safety at Job Sites. Greater emphasis by company management on training and safety has the beneficial effect of lowering claims frequency, which has a direct impact on overall insurance costs.

All these factors have contributed to lower costs for Workers’ Comp, and while this is all good news there are some factors that can have a negative impact on future rates. The sophistication and “professionalism” of insurance fraud is seeping into the New York construction industry, leading to a recent spike in large insurance claims. Long Covid and increased benefits for mental illness caused



by worksite environments can be adding claims costs to the system. So, while rates have dropped somewhat, the watchwords for contractors and agents remain the same: When it comes to safety, be vigilant!

*To learn more about Workers’ Compensation or the Safety Groups, contact Levitt-Furst Insurance and Bonding at 914-457-4200. ■*

# Campaign to Reduce Bridge Strikes Targets Commercial Vehicles on Thruway

ALBANY—During the Fourth Quarter of 2024, New York State reported 7,300+ violations were issued during dozens of enforcement details held in partnership with the NY State Police along the Thruway System. Included in the total were 31 violations for over-height vehicles, 56 for bridge strikes on Thruway bridges in 2024. There have been 231 over the last five years, according to the Thruway Authority, which announced the findings on Jan. 9.

The findings are the result of a statewide commercial vehicle enforcement campaign on the 570-mile New York State Thruway system to reduce bridge strikes caused by over-height vehicles and enhance the safety of all vehicles using the Thruway. The enforcement initiative was conducted in partnership with the New York State Police Commercial Vehicle Enforcement Unit (CVEU).

During the months of October, No-

vember and December, some 30 enforcement details were held in various regions along the Thruway, leading to 7,301 violations issued, including 31 for over-height vehicles.

Thruway Authority Executive Director Frank G. Hoare said, “Bridge hits on the Thruway system are a safety issue and can cause considerable damage to our infrastructure resulting in countless delays for motorists and the diverting of critical resources from high-

way maintenance and upkeep. The law requires drivers to know the height of their vehicle to mitigate these avoidable incidents and with the increasing number of trucks on the roads, it’s incumbent upon drivers to be vigilant to keep traffic moving. The Thruway Authority is committed to mitigating bridge hits and vigorously pursuing claims from motorists who damage Thruway property and equipment and inconvenience our customers.” ■