

Submitted Electronically via the Federal eRulemaking Portal Web Site

September 14, 2023

OSHA
Directorate of Construction
Proposed Rulemaking Docket No. OSHA-2019-0003

Subject: Comments of the International Union of Painters and Allied Trades (IUPAT) and the Signatory Wall & Ceiling Contractors Alliance (SWACCA)

On behalf of the International Union of Painters and Allied Trades (IUPAT) and the Signatory Wall and Ceiling Contractors Alliance (SWACCA) we submit these comments reflecting the joint support of construction labor and management for OSHA's proposed rule revising the Personal Protective Equipment (PPE) standard in construction¹ to specifically require PPE to properly fit the affected worker.

The International Union of Painters and Allied Trades ("IUPAT") represents a diverse group of skilled men and women working as painters, drywall finishers, wall coverers, glaziers, glass workers, floor covering installers, sign makers, display workers, convention and show decorators, and several other occupations collectively referred to in the construction industry as "the finishing trades." Through our 30 District Councils, and over 300 local unions throughout the United States and Canada, the IUPAT advocates for the rights and dignity of all workers. Central to these efforts is an unsurpassed commitment to ensuring the safety of people who want to make a good living through a career in the finishing trades.

The Signatory Wall and Ceiling Contractors Alliance ("SWACCA") is a national, non-profit trade association that advocates for the interests of union-signatory wall and ceiling construction industry employers. SWACCA represents approximately 400 wall and ceiling construction employers who perform commercial framing, drywall, and interior systems work nationwide. Our members employ thousands of IUPAT members as drywall finishers and for other finishing trades work throughout the United States. SWACCA prides itself on representing construction contractors that accept responsibility for providing safe workplaces, and family-sustaining wages and benefits. Our members honor their obligation to comply with labor and employment standards, workers compensation laws, and unemployment insurance requirements. In conjunction with labor partners like the IUPAT, SWACCA sponsors training programs that provide industry recognized safety and skills training and certifications to men and women entering the finishing trades and advanced training for every phase of a craft person's career.

As organizations representing both workers and contractors, the IUPAT and SWACCA are well positioned to understand the issue of safety on construction jobsites from all perspectives. PPE in the construction industry is meant to minimize the risks of workplace injuries and illnesses associated with potentially dangerous worksites. Proper fit is essential to ensure each worker is well protected.

¹ Personal Protective Equipment in Construction, 88 Fed. Reg. 46706, (July 20, 2023) (hereinafter "Proposed Rule").

It is recognized by environmental health and safety professionals, OSHA, The National Institute of Occupational Safety and Health, and the Center for Disease Control that PPE must fit properly to appropriately reduce risk from exposure to physical agents (like chemicals, radiological material, etc.) or safety incidents (falls, cuts, etc.).² Research has shown that PPE that does not fit a worker properly has negative consequences for its use and effectiveness.³ One study, cited by the CDC, conducted among Egyptian construction workers demonstrated that proper fit is a driving reason for workers to either not have or to not use PPE. The study showed that 69% of workers who “never wear PPE” do so because of poor fit, and of those who do wear PPE, 75% said that their PPE was removed at work because it “fell off.”⁴ The bottom line is simple: PPE is essential for safe working conditions and proper fit is a crucial component in order for workers to effectively and consistently wear PPE.

With recent unprecedented federal investments in infrastructure including airports, water facilities, schools and more, IUPAT members employed by SWACCA contractors are in high demand. Both the IUPAT and SWACCA view this as an opportunity to grow our organizations and, specifically, we are invested in diversifying the construction workforce to provide opportunities to women and others who may have previously been excluded or, at least, not encouraged to be part of the construction trades. We must do this to meet the workforce demands that the President’s historic infrastructure investments have and will continue to create. We also recognize that our organizations are stronger when we welcome and encourage all Americans to bring their energy, talent, and commitment to our industry.

While the issue of properly fitting PPE does not exclusively impact women given that men also come in all shapes and sizes; it is clear from studies and from anecdotal evidence that women are disproportionately impacted when PPE is seen as one size fits all.⁵ If we are going to bring more women into the trades both the industry and the regulatory structure that surrounds it must evolve to ensure the safety of women on the job. Establishing that an employer’s obligation to provide PPE in construction extends to providing properly fitting PPE is a critical part of this.

It is important to note that many professions require PPE usage among workers—from medical workers to shipyard workers. Many of these professions have had rules around proper fit for decades because of the longstanding fit requirements in the OSHA standards for general industry and maritime that the proposed rule would incorporate into the construction standard. There is nothing unique to the construction industry that would put an undue burden on employers to ensure that each worker

² ISEA Warns Poorly Fitting Personal Protective Equipment is a Safety Hazard (June 14, 2019) https://www.prweb.com/releases/isea_warns_poorly_fitting_personal_protective_equipment_is_a_safety_hazard/prweb16368238.htm (last accessed September 5, 2023).

³ Jarrett Milligan, *Inclusive Safety: Providing Tailor-Made PPE for Women*, Professional Safety Journal (August 2019) https://www.assp.org/docs/default-source/psj-articles/bp_milligan_0819.pdf?sfvrsn=0 (last accessed September 5, 2023).

⁴ Sehsah Radwah, El-Gilany Abdel-Hady, and Ibrahim Ateya Megahed, *Personal Protective Equipment (PPE) Use and its Relation to Accidents Among Construction Workers*, La Medicina del Lavoro (2020) <https://pdfs.semanticscholar.org/76d0/6dd10c162c817f8324aba12f5a8116c46e93.pdf> (last accessed September 5, 2023).

⁵ *PPE Special: Unready to Wear*, IOSH Magazine (October 2018) <https://www.ioshmagazine.com/ppe-special-unready-wear> (last accessed September 5, 2023).

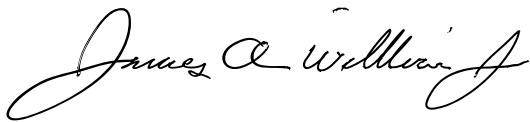
has access to PPE that fits their size and shape properly and can be used for the purpose for which it was intended: to protect the worker from hazards of injury or illness.

We believe this rule is long overdue. OSHA's Advisory Committee on Construction Safety & Health unanimously recommended in 2011 that OSHA "update the Construction PPE Standards to mirror the General Industry PPE requirements, specifically that PPE fit the employee who will use it."⁶ While the delay in acting on this 2011 recommendation is unfortunate, the passage of time has made it easier to implement. This is because of the ever-growing list of PPE manufactures and vendors that have sizes and fits varied enough to cover a wide range of body types. The progress in diversifying available equipment and clothing is illustrated by the Center to Protect Workers Rights' list of PPE for women in construction that includes manufacturers specifically focused on PPE for women in the trades.⁷

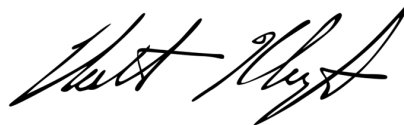
Finally, we think it is important to note that the uncertainty often associated with the revision of an OSHA standard does not pertain to this proposed rule. OSHA is adopting language it has long applied in the general industry and maritime standards. And OSHA "anticipates that application of the proposed language requiring properly fitting PPE in the construction standard would be the same as for general industry and maritime."⁸

The IUPAT and SWACCA support the proposed rule as an important step to realizing our shared goal of encouraging every segment of society to help meet our nation's urgent need for skilled construction craft workers.

Respectfully,



James Williams, Jr.
General President
IUPAT



Robert Klugh
President
SWACCA

⁶ *Supra note 1*, Proposed Rule at 46707.

⁷ See <https://www.cpw.com/research/research-to-practice-r2p/r2p-library/resources-for-stakeholders-and-researchers/construction-personal-protective-equipment-for-the-female-workforce/>, last accessed on 9-1-23.

⁸ *Supra note 1*, Proposed Rule at 46711.