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COVID-19 OSHA FAQs about Respirators, Face Masks, and Face Coverings

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As concerns about the spread of COVID-19 grow, many employees working in essential businesses have sought to provide or require some form of respirator, face mask, or face covering for employees. Now, the CDC and White House are recommending that everyone wear some form of face covering any time in public to help reduce community spread of COVID-19. So, it is important to be aware of the OSHA guidelines and obligations regarding respirators and face coverings in the workplace. Depending on the type of face mask used, and whether it is required by the employer or permitted for voluntary use, there are certain requirements that employers must follow under OSHA's respiratory protection standard, [29 C.F.R. 1910.134](#) and perhaps by other regulatory requirements. 

As a starting point, let's level-set the type of equipment we are talking about. N95 masks, although they are called masks and look like masks, are actually considered by OSHA to be respirators. Of course, anything more substantial than an N95 mask, such as half or full face tight-fitting face pieces with a filtering medium, are also considered by OSHA to be respirators. That type of equipment, whether it is required by the employer or permitted for voluntary use, triggers some requirements of OSHA's respiratory protection standard that we will discuss below. Simple paper or cloth masks, like dental or non-N95 surgical masks, on the other hand, are not considered to be respirators, and do not trigger any requirements under 1910.134.

OSHA's respiratory protection standard provides that a respirator shall be provided to each employee when such equipment is necessary to protect the health of such employee; i.e., if there are exposures to chemicals or other hazardous agents above permissible exposure limits. If a respirator is necessary because of exposure levels or simply because an employer mandates employees wear respirators, the employer must establish a written respiratory protection program that includes numerous elements such as fit testing, medical evaluations, procedures for proper use, storage and cleaning, and training.

OSHA's initial [Guidance for COVID-19 in the Workplace](#) described four exposure risk categories (lower, medium, high, and very high) that workplaces and job tasks fall into, and the safety precautions that should be considered for each risk level, including what personal protective equipment ("PPE") may be appropriate. The majority of workplaces, other than healthcare workers and those with regular close contact with known or suspected COVID-19 patients, fall into the lower or medium risk category. As of today, neither OSHA nor the CDC has

issued guidance indicating that N95 respirators, or any other device considered to be a respirator, is required in lower- and medium-risk workplaces to protect employees from exposures to COVID-19.


However, that does not answer the question about what, if any, regulatory requirements there are if employers permit employees to voluntarily use N95s or other negative pressure filtering facepieces. OSHA most succinctly addressed which parts of 1910.134 apply to the voluntary use of N95 masks in a [2009 Interpretation Letter](#) with this statement:

“If respiratory protection is not required and the employer did not advise the employee to use [an N95 dust mask], but the employee requested to use a dust mask, it would be considered voluntary use. Under these conditions, there would be no requirement to develop a written respiratory protection program; however, the employer would be responsible for providing the employee with a copy of Appendix D of 1910.134[, which outlines information for employees using respirators when not required under the standard].”

The voluntary use of N95 masks by employees does not require fit testing and most other elements of a respiratory protection program, but it does also require the employer to assess whether the employee would be harmed by wearing the mask (an assessment that is less rigorous than the medical evaluation required for mandatory use respirators). See also [2018 Interpretation Letter](#).

While permitting employees to voluntarily use N95 masks may pose some additional, albeit minor, burden, employers should be especially cautious of employees who seek to voluntarily wear respiratory protection more substantial than a surgical mask or N95 mask. For instance, if an employer permits employees to use, even if just on a voluntary basis, a half-face elastomeric tight-fitting respirator or self-contained breathing apparatus, there are additional, much more rigorous regulatory requirements that they need to meet. In particular, an employer would be required to pay for a required medical evaluation for such voluntary use and provide voluntary users with appropriate facilities and time to clean, disinfect, maintain, and store the respirators. To avoid these issues, employers should consider expressly disallowing voluntary use of respirators that are more substantial than the N95.

Ultimately, with new guidance from the CDC and the White House suggesting we all should wear some type of mask or face covering when in public, employers should be prepared to address these issues as they arise. If employees are able to obtain and voluntarily use N95 masks, employers must provide each such employee a copy of [Appendix D](#) in 29 C.F.R. 1910.134. To avoid any confusion about managers and supervisors identifying employees wearing N95 masks and to mitigate enforcement risk, it would be prudent to make an announcement to employees about the voluntary use of N95 masks (that you will permit it), post a copy of Appendix D in the workplace, and document your efforts to provide employees the information in Appendix D.

Staying on the subject of respirators (as opposed to face coverings and non-respirator masks), OSHA recently issued three new interim enforcement guidance documents about enforcement of its Respiratory Protection standard, each of which was aimed at managing a national supply shortage of disposable N95 filtering facepiece respirators. Since N95s are traditionally used once and then discarded, the guidance documents provide  CSHOs enforcement discretion to permit the extended use and reuse of respirators, use of respirators that are

beyond their manufacturer’s recommended shelf life, as well as use of certain types of respirators that have historically been prohibited in the U.S.

The first [memorandum](#) explains that, in the event of extended use or reuse of N95s, the employee is permitted to use it as long as the N95 maintains its structural and functional integrity, and it is not physically damaged, soiled, or contaminated. The guidance indicates that employers should train employees to understand that if the structural and functional integrity of any part of the N95 is compromised, it should be discarded. In the event that an expired N95 is used, the guidance states that employers should themselves visually inspect or ensure that employees visually inspect the N95 to determine if the structural and functional integrity of the mask and its components (straps, nose, bridge, and nose foam material), as they may degrade over time.

The second [memorandum](#) clarifies that if respiratory protection *must* be used, and either acceptable NIOSH-certified alternatives or alternatives that were NIOSH-certified except for having exceeded their manufacturer’s shelf life are not available for use in accordance with the first memorandum, employers may consider using respirators and filters certified under standards of other countries or jurisdictions. Specifically, the guidance provides a list of alternative respirators that have been approved under standards in other countries or jurisdictions that may be used where N95s are unavailable, including the following:

Country	Mask	May be used in lieu of
Australia	P2	N95
	P3	N99 or lower
Brazil	PFF1	N95
	PFF3	N99 or lower
China	KN/KP95	N95
	KN/KP100	N99 or lower
Europe	P2	N95
	P3	N99 or lower
Japan	DS/DL2	N95
	DS/DL3	N99 or lower

Korea	Special 1st	N95
Mexico	N95	N95
	R95	R95 or lower
	P95	P95 or lower
	N99	N99 or lower
	R99	R99 or lower
	P95	P99 or lower
	N100	R100 or lower
	R100	R95 or lower
	P100	R95 or lower

The guidance also reiterates employer obligations to prioritize the hierarchy of controls to eliminate or substitute the most appropriate respiratory protection and to train employees on how to appropriately inspect, use, and maintain respiratory protection that may be used in the workplace. *Employers are directed* to ensure employees use the most appropriate respiratory protection available for the hazard against which workers need to be protected in the following order:

1. Implementing the hierarchy of controls in an effort first to eliminate or substitute out workplace hazards, then using engineering controls, administrative controls, and safe work practices to prevent worker exposures to respiratory hazards;
2. Prioritizing efforts to acquire and use equipment in the following order:
 - NIOSH-certified equipment; then
 - Equipment certified in accordance with standards of other countries or jurisdictions *except* the People's Republic of China, unless equipment certified in accordance with standards of the People's Republic of China is manufactured by a NIOSH certificate holder; then
 - Equipment certified in accordance with standards of the People's Republic of China, the manufacturer of which is not a NIOSH certificate holder; then
 - Facemasks (e.g., medical masks, procedure masks).
3. Prioritizing efforts to acquire and use equipment that has not exceeded its manufacturer's recommended shelf before allowing workers to use equipment that is beyond its manufacturer's recommended shelf life.
4. Prioritizing efforts to use equipment that has not exceeded its intended service life (e.g., disposable FFRs)

used for the first time) before implementing protocols for extended use or reuse of equipment.

5. Using homemade masks or improvised mouth and nose covers only, as a last resort (i.e., when no respirators or facemasks are available).

The third piece of respiratory protection guidance expanded OSHA's fit-testing guidance for N95 masks that had been previously issued only to healthcare industry employers to all employers in an [April 8, 2020 Enforcement Memorandum](#). Compliance Officers have enforcement discretion concerning the annual fit-testing requirements, as long as employers have made good-faith efforts to comply with the requirements of the Respiratory Protection standard and to follow the steps outlined in the [March 14, 2020 Enforcement Memorandum](#). That guidance specifically instructs employers to:

- Use only NIOSH-certified respirators;
- Implement CDC and OSHA strategies for optimizing the supply of N95 filtering facepiece respirators and prioritizing their use;
- Perform initial fit tests for each employee with the same model, style, and size respirator that the worker will be required to wear for protection against COVID-19 (initial fit testing is essential to determine if the respirator properly fits the worker and is capable of providing the expected level of protection);
- Inform workers that the employer is temporarily suspending the annual fit testing of N95 filtering facepiece respirators to preserve and prioritize the supply of respirators for use in situations where they are required to be worn;
- Explain to workers the importance of performing a user seal check (i.e., a fit check) at each donning to make sure they are getting an adequate seal from their respirator, in accordance with the procedures outlined in 29 CFR § 1910.134, Appendix B-1, [User Seal Check Procedures](#). See also, OSHA tutorial videos ([English](#), [Spanish](#)).
- Conduct a fit test if they observe visual changes in the employee's physical condition that could affect respirator fit (e.g., facial scarring, dental changes, cosmetic surgery, or obvious changes in body weight) and explain to workers that, if their face shape has changed since their last fit test, they may no longer be getting a good facial seal with the respirator and, thus, are not being adequately protected; and,
- Remind workers that they should inform their supervisor or their respirator program administrator if the integrity and/or fit of their N95 filtering facepiece respirator is compromised.

Employers are further directed to assess their engineering controls, work practices, and administrative controls on an ongoing basis to identify any changes they can make to decrease the need for N95s or other FFRs. When reassessing these types of controls and practices, employers should, for example, consider whether it is possible to increase the use of wet methods or portable local exhaust systems or to move operations outdoors. In some instances, an employer may also consider taking steps to temporarily suspend certain non-essential operations.

Finally, if quantitative or qualitative fit-testing capabilities cannot be performed, as required under mandatory Appendix A to 29 CFR § 1910.134, employers are instructed to consult with the manufacturer to see if it recommends a different model that fits similarly to the model traditionally used by employees.

Now setting aside respirators, if your workplace is permitting or even requiring use of some form of a loose-fitting paper or cloth mask (like a non-N95 surgical or dental mask), or even a generic face covering like a bandana or one of the DIY masks that CDC has been promoting for general use by the public, none of those are

considered to be a respirator, AND none of those are even considered to be PPE. As a general rule, these loose fitting masks (i.e., there is no seal around the mouth and nose) do not provide a reliable level of protection for the wearer of the mask from inhaling airborne particles. They are intended really to protect others around the wearer from secretions by the wearer of the mask. In principle, *my mask protects you, and your mask protects me*, so they do add safety value in the workplace, but they are a safety control (like a sneeze guard), not PPE.

With an understanding that these loose fitting face coverings are not respirators or PPE, there are no requirements in a specific OSHA standard that apply. So, even if your workplace has a mandatory policy for use of face coverings, there is no requirement to fit test or even a requirement for the employer to supply them or pay for them. It would be akin to a requirement that employees wear a long sleeve shirt to work, or wear close-toed shoes. The employer can require it without paying for it or supplying.

But beyond specific OSHA standards, there is the General Duty Clause. And if we are not there yet, we will soon be at a place where ensuring the use of a face covering is a recognized, feasible, expected infection control measure that employers should be adopting to avoid liability under the General Duty Clause. When we are at that point, then employers would be required to provide/supply/pay for them and ensure they are being used. It is also worth noting here that some state and local governments are already requiring cloth face coverings to be worn in public and by employees who interact with the public. In such situations, and depending on the state or local law, then employers are likely already required to provide them and/or pay for them.