



October 2, 2020

MEMORANDUM FOR: REGIONAL ADMINISTRATORS
STATE PLAN DESIGNEES

THROUGH: AMANDA EDENS 
Deputy Assistant Secretary

FROM: PATRICK J. KAPUST, Acting Director
Directorate of Enforcement Programs 

SUBJECT: Temporary Enforcement Guidance – Tight-Fitting Powered Air
Purifying Respirators (PAPRs) Used During the Coronavirus
Disease 2019 (COVID-19) Pandemic

This memorandum provides temporary enforcement guidance to Compliance Safety and Health Officers (CSHOs) for enforcing initial and annual fit-testing requirements of the Respiratory Protection standard, Section 1910.134 of Title 29 of the Code of Federal Regulations. It applies to tight-fitting PAPRs, approved by the National Institute for Occupational Safety and Health (NIOSH), when used for protection against SARS-CoV-2, the virus that causes COVID-19, by healthcare personnel or any other workers in high or very high exposure risk activities (e.g., emergency responders, mortuary workers, laboratory workers), because of supply shortages of both disposable N95 filtering facepiece respirators (FFRs) and fit-testing supplies (e.g., Bitrex™, isoamyl acetate) due to the COVID-19 pandemic. The Centers for Disease Control and Prevention's (CDC) *Strategies for Optimizing the Supply of N95 Respirators* includes the use of alternative respirators, such as PAPRs, as a strategy for conserving inventory when a healthcare facility's supply of N95 FFRs is at conventional capacity.¹ This memorandum outlines a new enforcement discretion policy to permit the use of NIOSH-approved tight-fitting PAPRs, because of their positive-pressure design, for protection against SARS-CoV-2 when initial and/or annual fit-testing is infeasible due to respirator and fit-testing supply shortages. This guidance applies only to fit-testing of NIOSH-approved tight-fitting PAPRs used as a contingency capacity

¹ See www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/index.html.

strategy² when performing job tasks with high or very high occupational exposure risk to SARS-CoV-2.³ It does not apply to:

- PAPRs that have not been approved by NIOSH;
- PAPRs used by any workers with low or medium exposure risk to SARS-CoV-2;
- PAPRs used by any workers for protection against airborne hazards other than SARS-CoV-2 (e.g., chemical hazards); and
- Loose-fitting hooded PAPRs that do not require fit-testing.

The Occupational Safety and Health Administration (OSHA) memorandum, *Temporary Enforcement Guidance - Healthcare Respiratory Protection Annual Fit-Testing for N95 Filtering Facepieces During the COVID-19 Outbreak*, issued on March 14, 2020, provides temporary enforcement guidance for 29 CFR § 1910.134 regarding annual fit-testing of healthcare personnel (HCP).⁴ OSHA issued temporary guidance to extend this policy to additional employees in the April 8, 2020 memorandum, *Expanded Temporary Enforcement Guidance on Respiratory Protection Fit-Testing for N95 Filtering Facepieces in All Industries During the Coronavirus Disease 2019 (COVID-19) Pandemic*.⁵ OSHA provided additional enforcement guidance related to 29 CFR § 1910.134 in the April 3, 2020 memoranda, *Enforcement Guidance for Use of Respiratory Protection Equipment Certified under Standards of Other Countries or Jurisdictions During the Coronavirus Disease 2019 (COVID-19) Pandemic*, and *Enforcement Guidance for Respiratory Protection and the N95 Shortage Due to the Coronavirus Disease*

² For the purposes of this memorandum, *contingency capacity*, as described in the CDC document, *Strategies for Optimizing the Supply of N95 Respirators*, is a facility's supply status during periods of expected N95 respirator shortages. Contingency capacity strategies should only be implemented after considering and implementing conventional capacity strategies. While current supply may meet the facility's current or anticipated utilization rate, there may be uncertainty if future supply will be adequate and therefore, contingency capacity strategies may be needed. See also CDC's *Considerations for Optimizing the Supply of Powered Air-Purifying Respirators (PAPRs)*, available at www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/powered-air-purifying-respirators-strategy.html.

³ For examples of high and very high risk job tasks, see OSHA Memorandum, *Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19)*, May 19, 2020, available at www.osha.gov/memos/2020-05-19/updated-interim-enforcement-response-plan-coronavirus-disease-2019-covid-19. However, one such high-risk job task mentioned in this memorandum, that of performing surgery on suspected or confirmed COVID-19 patients, should *not* be considered for use of a tight-fitting PAPR because any respirator equipped with an exhalation valve is not recommended where a sterile environment is required (see National Academy of Sciences, Engineering, and Medicine, National Academy of Sciences, Engineering, and Medicine, *Reusable Elastomeric Respirators in Health Care: Considerations for Routine and Surge Use*, 2019, Washington DC: National Academies Press, available at www.nationalacademies.org/our-work/study-on-the-use-of-elastomeric-respirators-in-health-care).

⁴ OSHA Memorandum on *Temporary Enforcement Guidance - Healthcare Respiratory Protection Annual Fit-Testing for N95 Filtering Facepieces During the COVID-19 Outbreak*, March 14, 2020, available at www.osha.gov/memos/2020-03-14/temporary-enforcement-guidance-healthcare-respiratory-protection-annual-fit.

⁵ OSHA Memorandum on *Expanded Temporary Enforcement Guidance on Respiratory Protection Fit-Testing for N95 Filtering Facepieces in All Industries During the Coronavirus Disease 2019 (COVID-19) Pandemic*, April 8, 2020, available at www.osha.gov/memos/2020-04-08/expanded-temporary-enforcement-guidance-respiratory-protection-fit-testing-n95.

2019 (COVID-19) Pandemic.⁶ In light of the continuing essential need for adequate supplies of respirators and fit-testing supplies, OSHA is issuing this additional memorandum, which will take effect immediately and remain in effect until further notice. This guidance is intended to be time-limited to the current public health crisis with the novel coronavirus pandemic. Please frequently check OSHA’s webpage at www.osha.gov/coronavirus for updates.

Background

On January 31, 2020, the Secretary of Health and Human Services (HHS) declared the COVID-19 outbreak a public health emergency.⁷ The President also declared a national emergency due to COVID-19.⁸

The response to the pandemic has created an increased demand for N95 FFRs, limiting their availability for use in protecting workers in healthcare and emergency response from exposure to the virus. As a result, the President directed the Secretary of Labor to “*consider all appropriate and necessary steps to increase the availability of respirators.*”⁹

Due to limited global availability, many N95 FFRs are being used under contingency and crisis capacity strategies that involve extended use, as well as decontamination and reuse. However, tight-fitting PAPRs are designed to be cleaned and reused. If employers switch from N95 FFRs to tight-fitting PAPRs, it will both reduce the demand for N95 FFRs and the number of employees affected by the strategies that many employers are implementing to deal with N95 FFR shortages. Given additional concerns regarding a shortage of fit-testing supplies, employers are encouraged to take necessary steps to prioritize the use of available fit-testing supplies to protect employees who must use respirators for high risk procedures.

Due to the impact on workplace conditions caused by limited supplies of N95 FFRs, all employers should reassess their engineering controls, work practices, and administrative controls to identify any changes they can make to decrease the need for N95 FFRs used for protection against hazardous dusts and airborne biological hazards. Employers should, for example, consider whether it is feasible to increase the use of wet methods or portable local exhaust

⁶ OSHA Memorandum on *Enforcement Guidance for Respiratory Protection and the N95 Shortage Due to the Coronavirus Disease 2019 (COVID-19) Pandemic*, April 3, 2020, available at www.osha.gov/memos/2020-04-03/enforcement-guidance-respiratory-protection-and-n95-shortage-due-coronavirus.

OSHA Memorandum on *Enforcement Guidance for Use of Respiratory Protection Equipment Certified under Standards of Other Countries or Jurisdictions During the Coronavirus Disease 2019 (COVID-19) Pandemic*, April 3, 2020, available at www.osha.gov/memos/2020-04-03/enforcement-guidance-use-respiratory-protection-equipment-certified-under.

⁷ HHS, *Determination of Public Health Emergency*, 85 FR 7316 (February 7, 2020), at www.federalregister.gov/documents/2020/02/07/2020-02496/determination-of-public-health-emergency.

⁸ Proclamation 9994 of March 13, 2020, *Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak*, 85 FR 15337 (March 18, 2020), at www.federalregister.gov/documents/2020/03/18/2020-05794/declaring-a-national-emergency-concerning-the-novel-coronavirus-disease-covid-19-outbreak.

⁹ See Presidential Memoranda, *Memorandum on Making General Use Respirators Available*, March 11, 2020, available at www.whitehouse.gov/presidential-actions/memorandum-making-general-use-respirators-available/.

systems for dust-generating operations, or to move operations outdoors, so that N95 FFRs are not necessary. In some instances, an employer may also consider taking steps to temporarily suspend certain non-essential operations to limit potential exposure to the hazardous dust and/or biological hazards, such as SARS-CoV-2.

Enforcement Guidance

If respiratory protection must be used, employers may consider the use of alternative classes of respirators that provide equal or greater protection compared to N95 FFRs, such as other FFRs (N99, N100, R95, R99, R100, P95, P99, and P100)¹⁰ and NIOSH-approved, non-disposable elastomeric respirators or PAPRs, either loose-fitting or tight-fitting. Employers must first determine each employee's fitness to wear his or her respirator by way of either the administration of a medical questionnaire (Appendix C of 29 CFR § 1910.134), or a physical medical examination that elicits the same information as the questionnaire, or both. *See* 29 CFR § 1910.134(e). In circumstances where it is not possible to conduct a medical exam (*e.g.*, spirometry) for the evaluation, due to limited services because of the pandemic, OSHA field offices have been directed to exercise enforcement discretion.¹¹

In circumstances where it is not possible to conduct fit-testing as required (*e.g.*, due to supply shortages of fit-testing kits or solutions), OSHA field offices will exercise enforcement discretion concerning the initial and/or annual fit-testing requirements for properly sized NIOSH-approved tight-fitting PAPRs used by certain personnel for protection against SARS-CoV-2, as long as the employer has complied with all other applicable requirements of the Respiratory Protection standard. When use of an N95 or better respirator is required (*e.g.*, during aerosol generating procedures performed by healthcare workers on patients with known or suspected COVID-19), and it is not possible to fit test all affected workers due to a shortage of respirators or fit-testing supplies, use of a tight-fitting positive pressure respirator without initial or annual fit-testing would be more protective than not using any respirator.

All employers whose employees are required to use or are permitted voluntary use of respiratory protection must continue to manage their respiratory protection programs (RPPs) in accordance with the OSHA Respiratory Protection standard, and should pay close attention to shortages of N95 FFRs and fit-testing supplies during the COVID-19 pandemic. 29 CFR § 1910.134(d)(1)(iii) requires employers to identify and evaluate respiratory hazards in the workplace, and 29 CFR § 1910.134(c)(1) requires employers to develop and implement written RPPs with worksite-specific procedures, and to update their written programs as necessary to reflect changes in workplace conditions that affect respirator use. CSHOs should generally refer to CPL 02-00-158, *Inspection Procedures for the Respiratory Protection Standard*, 6/26/2014, for further guidance.¹²

¹⁰ *See* CDC's *NIOSH-Approved Particulate Filtering Facepiece Respirators*, available at www.cdc.gov/niosh/nppt/topics/respirators/resp_part/default.html.

¹¹ OSHA Memorandum on *Discretion in Enforcement when Considering an Employer's Good Faith Efforts During the Coronavirus Disease 2019 (COVID-19) Pandemic*, April 16, 2020, available at www.osha.gov/memos/2020-04-16/discretion-enforcement-when-considering-employers-good-faith-efforts-during.

¹² *See* www.osha.gov/enforcement/directives/cpl-02-00-158.

Citation Guidance

OSHA will, on a case-by-case basis, exercise enforcement discretion when considering issuing citations under 29 CFR § 1910.134(d) and (f) in cases where the employer has:

- Provided NIOSH-approved tight-fitting PAPRs to protect personnel against SARS-CoV-2 using a high efficiency (HE) particulate cartridge or filter, when initial and/or annual fit-testing is infeasible due to shortages of N95, N99, N100, R95, R99, R100, P95, P99, and P100 respirators and/or fit-testing supplies;
- Monitored fit-testing supplies and made good faith efforts to obtain fit-testing supplies;
- Implemented, to the extent feasible, engineering controls, work practices, and/or administrative controls that reduce the need for respiratory protection, such as using partitions, restricting access, and cohorting patients; and
- Maintained a fully-compliant RPP, other than fit-testing requirements, including ensuring personnel are informed of new policies and trained on new procedures, ensuring employees receive required medical evaluations, ensuring batteries and filters for PAPRs are well maintained to provide positive pressure throughout the entire shift or procedure, and ensuring employees wearing tight-fitting PAPRs maintain neatly trimmed facial hair that does not compromise the seal of the respirator or come between the sealing surface of the facepiece and the face, and that does not interfere with valve function.

Note, if respirators are required, employers should consider accommodations for religious exercise for those employees who, for instance, have or cannot trim facial hair due to religious belief.¹³

Where the above efforts are absent and respiratory protection use is required, or voluntary use is permitted, and an employer fails to comply with applicable medical evaluation, fit-testing, maintenance, care, and training requirements, citations under the applicable provision(s) of 29 CFR § 1910.134 and/or other applicable expanded health standards may document these as serious violations. If you have any questions regarding this policy, please contact the Directorate of Enforcement Programs at (202) 693-2190.

cc: DCSP
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¹³ See OSHA's Letter to the Sikh American Legal Defense and Education Fund, August 5, 2011, available at www.osha.gov/laws-regs/standardinterpretations/2011-08-05.