

11.80

Temporary Enforcement Guidance **Annual Fit-Testing, Respiratory Protection and Face Coverings during COVID-19 Pandemic**

Updated: : September 21, 2021

I. Purpose

This Directive provides temporary enforcement guidance to Compliance Safety and Health Officers for enforcing Chapter 296-842 WAC, Respirators, with regard to supply shortages of N95 filtering facepiece respirators due to the COVID-19 outbreak. The Respiratory Protection standard has specific requirements, including a written program, medical evaluation, fit-testing, and training, that employers must follow to ensure workers are provided and are properly using appropriate respiratory protection when necessary to protect their health.

On March 11, 2020, the President directed the Department of Labor to take all appropriate and necessary steps to increase the availability of general use respirators for emergency use by healthcare personnel in healthcare facilities. In light of the Presidential Memorandum, OSHA provided temporary guidance for 29 CFR § 1910.134, regarding required annual fit-testing (paragraph (f)(2)), which is to take effect from the date of their memorandum and remain in effect until further notice.

DOSH is updating this Directive to clarify acceptable processes for employers to use to verify employee vaccination status and to align with recent changes in the [Secretary of Health's Masking Order](#) along with August 23, 2021 changes from the Washington State Governor's Office.

II. Scope and Application

DOSH is adopting this Directive to provide direction to our staff consistent with the Department of Health, CDC, and OSHA memoranda and guidance for Washington employers.

This temporary enforcement discretion policy will apply until further notification.

This updated Directive supersedes DD 11.80, dated July 7, 2021.

III. References

- Chapter 296-842 WAC, Respirators
- WAC 296-842-22010, Follow these fit-testing procedures for tight-fitting respirators.
- WAC 296-842-22020, Follow procedures established for seal checking respirators.
- Chapter 296-307-594-622 WAC, Respirators in Agriculture
- Chapter 296-307-606, Follow these fit-testing procedures for tight-fitting respirators.
- Chapter 296-307-61205, Follow procedures established for seal checking respirators.

- CDC Guidance for COVID-19 Infection Control
- OSHA – Expanded Temporary Enforcement Guidance on Respiratory Protection Fit-Testing for N95 Filtering Facepieces in All Industries During the Coronavirus Disease 2019 (COVID-19) Pandemic

IV. **Background**

The Centers for Disease Control and Prevention (CDC) currently recommends that Health Care Providers (HCP), who are providing direct care of patients with known or suspected COVID-19, practice infection control procedures. These include engineering controls (e.g., airborne infection isolation rooms), administrative controls (e.g., cohorting patients, designated HCP), work practices (e.g., handwashing, disinfecting surfaces), and appropriate use of personal protective equipment (PPE), such as gloves, face shields or other eye protection, and gowns.

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Appropriate respiratory protection is required for all healthcare personnel providing direct care of these patients.

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For additional guidance, see COVID-19 Hospital Preparedness Assessment Tool, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/hcp-hospital-checklist.html>.

DOSH recommends HCP employers follow existing CDC guidelines, including taking measures to conserve supplies of these respirators while safeguarding HCP.

- One such measure is that healthcare employers may provide HCP with another respirator of equal or higher protection, such as N99 or N100 filtering facepieces, reusable elastomeric respirators with appropriate filters or cartridges, or powered air purifying respirators (PAPR).
- Another measure is that healthcare employers may change the method of fit-testing for filtering facepieces from a destructive method (i.e., quantitative) to a non-destructive method (i.e., qualitative). For filtering facepiece respirators, qualitative and quantitative fit-testing methods are both effective at determining whether the respirator fits properly. The fitted respirator can then be safely used by that employee for work tasks that require respiratory protection. Once the N95 has been used by an employee for fit-testing or any other use, no other employee is to use that same N95.

For additional guidance, see Strategies for Optimizing the Supply of N95 Respirators, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirator-supply-strategies.html>.

For Employers in all industries, the COVID-19 outbreak has increased demand for N95 filtering facepiece respirators. Employers are encouraged to promote and allow the voluntary use of N95, or other at least as protective filtering facepiece respirators, especially for workers who have not been fully vaccinated or whose vaccination status has not been verified. Public health authorities (CDC, health departments, and the Governor's office) continue to recommend the use of cloth face coverings when people are in group settings, including work. These recommendations are meant to enhance physical distancing recommendations to stay more than 6 feet from other people and practice good hand hygiene. In some cases, where workers cannot avoid being in close proximity with other people, a respirator may be needed for protection. These guidelines in no way replace the required use of respirators needed to protect employees from exposure to other hazards during job tasks or activities.

Unlike exceptions being made for Health Care Providers during this pandemic, when respiratory protection is required to protect employees against exposure to an air contaminant, filtering facepiece respirator use cannot be extended by cleaning and sanitizing. This applies to industries such as (but not limited to) Manufacturing, Construction and Agriculture. When a filtering facepiece (N95 to P100) respirator is used and contaminated with chemicals, such as oil or pesticides, it must be disposed of after use. All cartridge and canister change-out schedules for air-purifying respirators must be followed, with the extension of use delineated below for cartridges and canisters used in Agriculture during pesticide application when only particulate protection is required.

For pesticide application in Agriculture, if only particulate protection is required by the pesticide label and replaceable air purifying respirators with cartridges or canisters are provided, use of those canisters or cartridges may exceed the work day under all of the following re-use conditions:

- No breakthrough or odor is detected.
- Particulate cartridges or canisters may be appropriately cleaned on the outside, are not saturated or damaged, are stored in a way to prevent further contamination.
- A change-out schedule based on exposure and using one of the methods specified in the Respirator rule is followed, and use is not extended beyond a maximum of a consecutive week.

V. **Enforcement Policy**

- A. DOSH compliance staff will exercise enforcement discretion concerning the annual fit-testing requirement of N95 respirators, WAC 296-842-15005(1)(b), as long as employers:
- Perform initial fit-tests for each worker with the same model, style, and size respirator that the worker will be required to wear for protection against COVID-19 and all other airborne hazards. Initial fit-testing is essential to determine if the respirator properly fits the worker and is capable of providing the expected level of protection.
 - Make a good-faith effort to comply with Chapter 296-842 WAC, Respirators.
 - Use only NIOSH-certified respirators or approved foreign equivalents (see note below).
 - Implement CDC and OSHA strategies for optimizing the supply of N95 filtering facepiece respirators and prioritizing their use for healthcare and COVID-19, as discussed above.
 - Inform workers after an initial, successful fit-test 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 WAC 296-842-22020, Follow procedures established for seal checking respirators.
 - Conduct another 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.

- 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 must return to periodic fit-testing. While testing backlogs are cleared it is appropriate to delay routine retesting, but workers who have not been tested in more than one year need to be informed that they can request a retest. All workers must be retested within 2 years of their last fit test for a specific model and size of respirator that they are continuing to use. **Enforcement of annual fit-testing requirements will re-commence on January 1, 2022.**
- B. Given concerns regarding a shortage of fit-testing kits and test solutions (Bitrex™ and sodium saccharin USP), employers are further encouraged to take necessary steps to prioritize use of fit-testing supplies to protect employees who must use respirators for high-hazard procedures and activities.
- Employers, particularly outside of healthcare, must look at their respirator selection criteria and identify where other respirators may be appropriately used. Use of half- and full-face elastomeric respirators will free up filtering facepiece respirators for critical needs in healthcare. These elastomeric respirators can also be easily fit-tested with quantitative systems, limiting the use of qualitative fit-testing supplies.
 - Employers must also assess their engineering controls, work practices, and administrative controls on an ongoing basis to identify changes they can make to decrease the need for N95s or other filtering face-piece respirators. For example, employers should consider whether it is possible to increase the use of wet methods, closed systems for pesticides, portable local exhaust systems, enclosed cabs with appropriate ventilation controls such as MERV-16 filtration under positive pressure, or to move operations outdoors. In some instances, an employer may also consider taking steps to temporarily suspend certain non-essential operations. Engineering controls are to be implemented if feasible, and respirators are to be worn if engineering controls are not feasible, or if the engineering controls do not reduce the exposures to below the applicable permissible exposure limit.
 - Employers should check with respirator manufacturers for information on equivalent-fitting respirator models. Most respirator manufacturers produce multiple models that use the same basic sealing surface geometry. Initial fit-testing is not required when a worker is provided a respirator that has a manufacturer identified fit equivalent to a respirator for which the worker has a successful initial fit-test.
 - The use of respirators may be enforced for potential exposure to the SARS-CoV-2 virus in work tasks meeting the “High Transmission Risk” or “Extremely High Risk” situations as described in the attached [Appendix A](#). The CSHO must document the specific exposure, including worker proximity to others and the activity. Requirements in Chapter 296-842 WAC, Respirators, applicable to the respirator and use situation may be considered.
 - For work tasks in the “Low Transmission Risk” and “Medium Transmission Risk” the CSHO may review use of cloth face coverings and other respirators as part of the

employer's programs. Where the employer's programs or training interfere with good social distancing practices, refer to DD 1.70, General Coronavirus Prevention Under Stay Home-Stay Healthy Order, for citation guidance.

NOTE: Respirators released from strategic stockpiles, are often beyond the manufacturer's expiration date. These respirators have been evaluated by NIOSH and verified to meet NIOSH standards for filtration. As with any respirator, workers should visually inspect the N95 respirator to determine if the structural and functional integrity of the respirator has been compromised. Over time, components such as the straps, nose bridge, and nose foam material may degrade, which can affect the quality of the fit and seal. If the structural and functional integrity of any part of the respirator is compromised, or if a successful user seal check cannot be performed, discard the respirator and try another respirator.

Respirators received from strategic stockpiles may be of a different style or manufacturer than the respirators currently in use. In that case, everyone using respirators from a different manufacturer than their current respirator is required to go through a new initial fit-test. Fit-tests of one manufacturer/style do not extend to other manufacturer's N95, or a different model from the same manufacturer.

Where the use of respiratory protection is required and an employer fails to comply with any other requirements, such as initial fit-testing, medical evaluation, maintenance, care, and training in the Respiratory Protection standard, cite the applicable requirements of Chapter 296-842 WAC, Respirators.

C. Vaccinated Workers.

- a. Employers may require masking for their workforce and should check with their local health jurisdiction regarding other health orders that may require masking.
- b. In areas that are not accessible to the public (customers, volunteers, visitors, and so forth), employers may allow fully vaccinated workers to remove face coverings after verifying the worker's vaccination status.
- c. Employers must verify this status as needed to make sure masks are worn when required as specified in Appendix A. Local health jurisdiction orders may have additional requirements related to COVID-19, including continued requirements for vaccinated individuals to wear face coverings.
- d. Workers who are vaccinated against COVID-19 by a two-dose mRNA vaccine (such as Moderna and Pfizer), or a single dose vaccine (such as Johnson & Johnson), are considered "fully vaccinated" *two weeks after the final dose of vaccine* (the second dose for a two-dose regimen, or the single dose for a single-dose regimen). Workers vaccinated outside the United States with a vaccine with a World Health Organization (WHO) Emergency Use listing (EUL) are considered fully vaccinated if:
 - The worker has completed the full vaccination series, AND
 - The appropriate amount of time has passed according to the manufacturer's guidance for the worker to be fully protected.

Workers who have not received an FDA-authorized or WHO-listed COVID-19 vaccine must not be considered fully vaccinated.

- e. The employer is not required to verify vaccination status if masking and physical distancing are to be maintained; employers have the choice to maintain masking and physical distancing in their workplaces.
- f. If a worker declines to provide verification of their vaccination status, they are not considered fully vaccinated.
- g. Employers must be mindful of privacy and medical confidentiality laws in implementing the vaccination verification process. Copies of employees' vaccination records may require secure and confidential handling as a medical record. Compliance staff must limit their inquiries to checking that the employer has effectively verified vaccination status for staff who are unmasked and not physically distancing. Vaccination records are not normally collected by CSHOs, and any records inadvertently collected during the inspection that provide more than the name and date of verification should be returned to the employer prior to or during the closing conference. Otherwise, those records must be placed in an envelope clearly marked "confidential" and "possible medical information contained within" on the envelope within the inspection file.
- h. If masking and physical distancing are not maintained, the employer must have a demonstrable process to verify vaccination status. Example vaccination verification processes may include:
 - Creating a log of the names of workers who have been verified as fully vaccinated and the date that the verification was done, OR
 - Checking vaccination status each day as workers enter a jobsite, OR
 - Documented worker attestations of vaccination, OR
 - Other methods that demonstrate an employer has verified a worker has been fully vaccinated
- i. Acceptable verification of vaccination status is:
 - A CDC vaccination card (which includes name of person vaccinated, type of vaccine provided, and date last dose administered), OR
 - A photo of a CDC vaccination card as a separate document or a photo of the attendee's vaccine card stored on a phone or electronic device, OR
 - Documentation of vaccination from a health care provider or state immunization information system record, OR
 - A hard copy or electronically signed self-attestation from the employee

NOTE: In the event of a COVID-19 outbreak, state and local public health officials may require further verification of the worker's vaccination status, including observing the worker's CDC vaccination card, state immunization information system record, or other documentation.
- j. The employer must provide evidence of their process to verify employee vaccination status to the department upon request.

VI. Point of Contact

DOSH staff should contact Compliance Operations if there are questions about applicability of WISHA rules to an infectious disease in the workplace. Technical Services may be contacted with technical questions about workplace practices.

VII. Review and Expiration

To emphasize, this is an enforcement discretion policy, beginning from the date of this Directive, and applicable where respirators are needed to protect healthcare personnel, and non-healthcare industries including Agriculture and Construction, during the COVID-19 outbreak. This Directive will remain effective until superseded or canceled.

Approved: 

Craig Blackwood, L&I Acting Assistant Director
Division of Occupational Safety and Health

[\[See Appendix A below\]](#)

**APPENDIX A: Washington State Coronavirus Hazard Considerations for Employers
(Except COVID-19 Care in Hospitals and Clinics)
Face Coverings, Masks, and Respirator Choices
[September 21, 2021]**

Vaccination Status	Transmission Risk Category		
	Low	Medium	High
Work characteristics	Working inside* with other people or a gathering of 500 or more people outdoors, but physical distancing is maintained between unvaccinated individuals and is not considered a medium or high transmission risk	<ul style="list-style-type: none"> Physical distancing between unvaccinated people is not maintained Work in the presence of COVID-19 quarantined or isolated people, with physical distancing Providing healthcare to individuals not known or suspected to have COVID-19 	<ul style="list-style-type: none"> Close proximity between breathing zones (directly breathing exhaled air). High exertion activities or respiration (<6 foot distancing) Work in the vicinity of aerosol generating procedures Providing care to an individual known or suspected to have COVID-19
Anyone Working in public areas or, Unvaccinated or vaccination status unknown	Cloth face coverings required by order**	Medical procedure mask, KN95, or voluntary use respirator	N95 filtering facepiece respirator or more protective respirator
Verified fully vaccinated and working in non-public areas	<ul style="list-style-type: none"> Employer not required to enforce mask use. Workers may choose to wear PPE. Employer not required to enforce PPE use. Only applies when no customers, students, volunteers, visitors, or other non-employees are present. 		Employer must assess exposures and may consider vaccination status in determining respiratory protection needs per Chapter 296-842 WAC.

* Inside should be considered broadly to mean not outside. Outside environments have a free flow of air that limits viral transmission. Situations that are under cover or partially surrounded by walls are not necessarily outside or inside. Generally, these situations should be considered inside unless it can be shown that there is good flow of air that maintains an outside air environment.

** The Secretary of Health's order requiring public masking may be referred to for specific requirements and exceptions:
https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/Secretary_of_Health_Order_20-03_Statewide_Face_Coverings.pdf

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Exposure Assessment for Respirator Protection Selection:

Identifying medium and high-risk exposures for unvaccinated workers and high risk exposures for fully vaccinated workers the following factors may be considered:

- Are there individuals in the workspace suspected or known to have COVID-19?
- Fully vaccinated status of workers and others around them.
- **Mask use of the other people.**
- Close proximity (within 6 feet) for an extended period of time on a frequent or infrequent basis.
- Close by (e.g., within 3 feet) with no option to move safely away or stay behind a physical barrier, **particularly when in face-to-face positioning.**
- **Individuals who** need to breathe frequently and/or deeply due to physically strenuous work or other activity that requires deep breathing.
- **Aerosol-generating medical procedures that may create fine infectious particles or droplets.**
- In an enclosed or confined space.
- In a poorly ventilated area:
 - Indoor spaces are enclosed by walls and ceilings **with minimal ventilation are** of greatest concern
 - **Air flow directly from one person to another can carry respiratory droplets far more than 6 feet**
 - **Even with good ventilation, air flow indoors does not replace breathing air more than a few times an hour**
 - **Outdoor spaces have no structures or other objects that restrict air flow and are not a concern unless other factors are combined, even a small breeze will change out the air around people a few times per minute**
 - Some spaces, such as breezeways, covered loading docks, covered porches, and so forth are not considered indoors or outdoors. Employers should consider the extent that air flow is constricted in assessing exposures in these spaces.

Generally, if there is a single factor such as very close proximity (3 feet) or elevated breathing, an unvaccinated worker will need a respirator, but protection from vaccination might be considered sufficient to reduce the hazard. If there are two or more factors, involved there is concern that a very high exposure occurs which could break through the protection of vaccination. Respirators are likely needed, regardless of vaccination status, in situations where aerosol generating procedures are conducted, providing face-to-face physical assistance to another individual, or working directly with individuals who are known or suspected to have COVID-19.

Further examples of exposure assessment include, protective masks may not be necessary for fully vaccinated employees riding with fully vaccinated coworkers to a jobsite a couple of hours away; but a respirator may be required for unvaccinated workers in this situation. Even fully-vaccinated employees working in some situations may need respiratory protection; such as, around an unvaccinated coworker performing heavy manual labor inside a confined space with poor ventilation should be considered for respiratory protection due to the particularly high level of exposure that could occur.

Other PPE:

Employers should consider other personal protective equipment when assessing mask requirements. Gloves, gowns, and face shields may be appropriate for limiting exposure to COVID-19.