




CHERIE K. BERRY
COMMISSIONER

SCOTT MABRY
ASSISTANT DEPUTY COMMISSIONER
OCCUPATIONAL SAFETY AND HEALTH DIVISION

MEMO

To: OSH Division
From: Scott Mabry, Assistant Deputy Commissioner 
Date: April 9, 2020
Re: Expanded Temporary Enforcement Guidance on Respiratory Protection Fit-Testing for N95 Filtering Facepieces in All Industries During the Coronavirus 2019 (COVID-19) Pandemic

On April 8, 2020 the Occupational Safety and Health Administration (OSHA) issued additional temporary enforcement guidance related to respiratory protection fit-testing for N95 and other filtering facepiece respirators (FFRs). This memorandum expands temporary enforcement guidance provided in OSHA's March 14, 2020 memorandum, Temporary Enforcement Guidance - Healthcare Respiratory Protection Annual Fit-Testing for N95 Filtering Facepieces During the COVID-19 Outbreak, which was adopted for use by the NCDOL OSH Division on March 16, 2020. The previous guidance only applied to healthcare and now applies to all workplaces covered by OSHA where there is required use of respirators.

This memorandum permits employers to use other models of N95 and filtering facepiece respirators (FFR) from the same manufacturer without fit-testing when the capability to conduct quantitative or qualitative fit-testing that is required under mandatory Appendix A to 29 CFR § 1910.134 is not available. This additional guidance is provided to assist with decision-making with respect to use of N95s or other FFRs and recognizes that most respirator manufacturers produce multiple models that use the same basic head form for size and fit.

Discretionary enforcement of the fit-testing requirements in 29 CFR 1910.134(f) by the OSH Division and in accordance with the attached OSHA memorandum is contingent upon evidence that the employer has 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 memorandum.

This enforcement policy will be effective on the date of signature by the OSH Assistant Director and will remain in effect until notified that it no longer applies.

Per this memorandum, the OSH Division of the NCDOL adopts the above-mentioned OSHA enforcement procedure for use in North Carolina. The referenced memorandum is attached.



April 8, 2020

MEMORANDUM FOR: REGIONAL ADMINISTRATORS
STATE PLAN DESIGNEES

THROUGH:

AMANDA EDENS

Handwritten signature of Amanda Edens in blue ink.

Deputy Assistant Secretary

Handwritten signature of Patrick J. Kapust in blue ink.

FROM:

PATRICK J. KAPUST, Acting Director
Directorate of Enforcement Programs

SUBJECT:

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

This memorandum expands temporary enforcement guidance provided in OSHA's March 14, 2020, memorandum to Compliance Safety and Health Officers for enforcing annual fit-testing requirements of the Respiratory Protection standard, 29 CFR § 1910.134(f)(2), with regard to supply shortages of N95s or other filtering facepiece respirators (FFRs) due to the coronavirus disease 2019 (COVID-19) pandemic.¹ The March 14 guidance, which applied to healthcare, now applies to all workplaces covered by OSHA where there is required use of respirators. This memorandum 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. Please frequently check OSHA's webpage at www.osha.gov/coronavirus for updates.

OSHA field offices will exercise 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 memorandum. Employers should also 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.

¹ See, www.osha.gov/memos/2020-03-14/temporary-enforcement-guidance-healthcare-respiratory-protection-annual-fit.

Further, given additional concerns regarding a shortage of fit-testing kits and test solutions (e.g., Bitrex™, isoamyl acetate), employers are further encouraged to take necessary steps to prioritize use of fit-testing equipment to protect employees who must use respirators for high-hazard procedures

In the absence of quantitative or qualitative fit-testing capabilities required under mandatory Appendix A to 29 CFR § 1910.134 Appendix A, the following additional guidance is provided to assist with decision-making with respect to use of N95s or other FFRs. Most respirator manufacturers produce multiple models that use the same basic head form for size/fit. Manufacturers may have a crosswalk (i.e., a list of their respirators with equivalent fit). Therefore, if a user's respirator model (e.g., model x) is out of stock, employers should consult the manufacturer to see if it recommends a different model (e.g., model y or z) that fits similarly to the model (x) used previously by employees.

During this COVID-19 pandemic, OSHA field offices should exercise additional enforcement discretion regarding compliance with 29 CFR § 1910.134(f) when an employer switches to an equivalent-fitting make/model/size/style N95 or other filtering facepiece respirator without first performing an initial quantitative or qualitative fit test. Where the use of respiratory protection is required and an employer fails to comply with any other requirements, such as initial fit testing, maintenance, care, and training in the Respiratory Protection standard, cite the applicable section(s) of 29 CFR § 1910.134.

If you have any questions regarding these policies, please contact the Directorate of Enforcement Programs at (202) 693-2190.

cc: DCSP
DTSEM
DSG