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**DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION**

To: Nevada Businesses

Re: Updated COVID-19 Guidance for Nevada Businesses (Effective Date: January 20, 2023)

This guidance supersedes previous Nevada Occupational Safety and Health Administration (Nevada OSHA) COVID-19 guidance released on May 20, 2022. This guidance has been updated in light of Governor Joe Lombardo's Executive Order rescinding all COVID-19 related directives related to Governor Sisolak's emergency declaration on March 12, 2020.

Because COVID-19 is a recognized health hazard in the workplace, employers continue to have a duty to protect their employees. Employers should evaluate the risk of COVID-19 in their workplace and incorporate an explanation of the methods used to identify, analyze, and control exposure to COVID-19 into the Written Safety Program required under [NAC 618.540\(1\)\(b\)](#).

While there are no State-specific requirements regarding COVID-19, the Federal requirements will remain in effect. These requirements include, but are not limited to:

- Requirements related to voluntary use of respiratory protection (Attachment 1).
- Recordkeeping and reporting requirements with respect to COVID-19-related hospitalizations or fatalities at healthcare facilities (Attachment 2).

Since the Federal OSHA [COVID-19 National Emphasis Program](#) remains in effect, Nevada OSHA will continue to evaluate COVID-19 inquiries and inspections for possible follow-up enforcement action at businesses in the following North American Industry Classification System (NAICS) Codes:

- 622110 General Medical and Surgical Hospitals
- 622210 Psychiatric and Substance Abuse Hospitals
- 623110 Nursing Care Facilities (Skilled Nursing Facilities)
- 623312 Assisted Living Facilities for the Elderly

Please note that following these guidelines does not constitute, and is not a substitute for, compliance with all laws and regulations applicable at this particular time. Individuals and businesses are responsible for ensuring compliance with all applicable health and safety requirements. Additionally, compliance with this guidance does not ensure prevention of spread of infections from COVID-19 or any other cause.

Need Safety Consultation Assistance?

The Division of Industrial Relations Safety Consultation and Training Section (SCATS) offers free consultations to businesses to help them understand and implement the requirements in order to comply with the health and safety guidance and directives for all businesses, and specific requirements for each industry.

If you have questions about this guidance, please call [SCATS](#) at 702-486-9140 (south) or 775-688-3730 (north).

Nevada OSHA COVID-19 guidance is subject to revision.

For questions about this guidance related to enforcement, please call Nevada OSHA at 702-486-9020 (south) or 775-688-3700 (north).

Additional Resources

For further guidance, please see the following links:

- Federal OSHA COVID-19 Prevention Program resources
 - <https://www.osha.gov/coronavirus/safework>
 - <https://www.osha.gov/coronavirus/guidance/industry>
- Centers for Disease Control and Prevention
 - <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>
- Mine Safety and Health Administration: <https://www.msha.gov/coronavirus>
- State of Nevada- <https://nvhealthresponse.nv.gov/>
- Nevada OSHA: <http://dir.nv.gov/OSHA/Home/>

Attachment 1: Voluntary Use of Respirators

Attachment 2: Recordkeeping and Reporting Requirements for Healthcare Employers

ATTACHMENT 1:

Voluntary Use of Respirators

Are N95/KN95 masks considered to be respirators?

N95 and KN95 masks are considered filtering facepiece respirators. Per [29 CFR 1910.134\(b\)](#), a filtering facepiece respirator is defined as a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium.

Are employees required to wear N95/KN95 masks in Nevada?

Some employers may require employees to wear N95/KN95 masks to reduce the risk of transmission of COVID-19. Each employer needs to assess respiratory hazards in the workplace and take steps necessary to protect employees. Per [29 CFR 1910.134\(c\)\(1\)](#), if employees are using *any type of respirator* (e.g., N95, KN95 mask) that is required by the employer or necessary to protect their health a written Respiratory Protection Program is required. For example, some industries may have higher risk of exposure to COVID-19, such as the nursing industry, where an employer may determine that N95/KN95 masks are needed to protect the health of employees. Other industries may determine that the risk of exposure to COVID-19 is not high and N95/KN95 masks are not required.

Can employers allow employees to voluntarily wear N95/KN95 masks?

Yes, employers may allow employees to voluntarily wear N95/KN95 masks for everyday use to reduce risk of transmission of COVID-19, regardless of exposure risk, if employers follow certain requirements. [29 CFR 1910.134](#) outlines what employers must do when allowing employees to voluntarily wear filtering facepiece respirators when otherwise not required.

What are employers required to do if employees want to voluntarily wear N95/KN95 masks?

Per [29 CFR 1910.134\(c\)\(2\)\(i\)](#), an employer must provide the respirator user with information contained in Appendix D of 1910.134 (included below).

How can employers meet the notification requirements?

There are easy ways for employers to meet the notification requirements. Per [29 CFR 1910.134\(k\)\(6\)](#), the information contained in Appendix D can be provided in any written or oral format. Some examples of compliant communication of Appendix D are:

- A group email sent to employees containing Appendix D language;
- Tailgate training where the language in Appendix D is provided orally; or
- Onboarding training that includes the language in Appendix D.

*Note that posting the Appendix D language on an employee bulletin board or other location does not meet the notification requirements per OSHA Directive: [CPL 02-00-158](#).

Does an employer have to fit test or medically evaluate employees voluntarily wearing N95/KN95 masks (filtering facepiece respirators)?

No. The employer does not need to ensure that an employee is medically able to use a filtering facepiece respirator, nor implement fit testing procedures, if the filtering facepiece respirator is used voluntarily.

Appendix D Handout for Employers

Appendix D to 29 CFR 1910.134 (Mandatory) Information for Employees Using Respirators When Not Required Under the Standard

Respirators are an effective method of protection against designated hazards when properly selected and worn. Respirator use is encouraged, even when exposures are below the exposure limit, to provide an additional level of comfort and protection for workers. However, if a respirator is used improperly or not kept clean, the respirator itself can become a hazard to the worker. Sometimes, workers may wear respirators to avoid exposures to hazards, even if the amount of hazardous substance does not exceed the limits set by OSHA standards. If your employer provides respirators for your voluntary use, or if you provide your own respirator, you need to take certain precautions to be sure that the respirator itself does not present a hazard.

You should do the following:

1. Read and heed all instructions provided by the manufacturer on use, maintenance, cleaning and care, and warnings regarding the respirator's limitations.
2. Choose respirators certified for use to protect against the contaminant of concern. NIOSH, the National Institute for Occupational Safety and Health of the U.S. Department of Health and Human Services, certifies respirators. A label or statement of certification should appear on the respirator or respirator packaging. It will tell you what the respirator is designed for and how much it will protect you.
3. Do not wear your respirator into atmospheres containing contaminants for which your respirator is not designed to protect against. For example, a respirator designed to filter dust particles will not protect you against gases, vapors, or very small solid particles of fumes or smoke.
4. Keep track of your respirator so that you do not mistakenly use someone else's respirator.

ATTACHMENT 2:

Recordkeeping and Reporting Requirements for Healthcare Employers

Although the OSHA COVID-19 Healthcare Emergency Temporary Standard has expired, the following recordkeeping and reporting requirements from the Emergency Temporary Standard are still in effect for certain healthcare employers as defined under [29 CFR 1910.502\(a\)](#) :

- 29 CFR 1910.502(q)(2)(ii)
- 29 CFR 1910.502(q)(3)(ii)-(iv)
- 29 CFR 1910.502(r)

Please note that these requirements do not apply to non-healthcare employers.

Reporting COVID-19 Fatalities and In-Patient Hospitalizations

Under [29 CFR 1904.39\(b\)\(6\)](#), employers are required to report a work-related fatality to OSHA only if death occurs within 30 days of the work-related incident, or an in-patient hospitalization only if the in-patient hospitalization occurs within 24 hours of the work-related incident.

However, pursuant to [29 CFR 1910.502\(r\)](#), covered healthcare employers are required to report each work-related COVID-19 fatality or in-patient hospitalization of any employee regardless of the amount of time between the exposure to COVID-19 in the work environment and the death or in-patient hospitalization. Employers must report each employee COVID-19 fatality to OSHA within 8 hours of learning about the fatality. Employers must also report each employee COVID-19 in-patient hospitalization to OSHA within 24 hours of learning about the in-patient hospitalization.

Note: If an employer makes a report to OSHA concerning a COVID-19 in-patient hospitalization and that employee subsequently dies from the illness, the employer does not need to make an additional fatality report to OSHA.

Employee COVID-19 Logs

Per [29 CFR 1910.502\(q\)\(2\)](#), covered healthcare facilities with 11 or more employees are required to establish and maintain COVID-19 logs to comply with the Emergency Temporary Standard. The logs must contain at least the following information for each employee who is positive for COVID-19, regardless of whether the instance is connected to exposure to COVID-19 at work:

- Employee's name;
- One form of contact information;
- Occupation;
- Location where the employee worked;
- The date of the employee's last day at the workplace;
- The date of the positive test for, or diagnosis of, COVID-19;
- And the date the employee first had one or more COVID-19 symptoms.

Per [29 CFR 1910.502\(q\)\(3\)](#), COVID-19 logs must be available for review by the end of the next business day after a request is made in the following circumstances:

Requestor	Information Required to be Provided
Nevada OSHA	The entire log, as maintained
A particular employee, or anyone having written authorized consent of the employee	The individual COVID-19 log entry for a particular employee
Any employees, their personal representatives, and their authorized representatives	A version of the COVID-19 log that removes the names of the employees, contact information, and occupation, and only includes, for each employee in the COVID-19 log, the location where the employee worked, the last day that the employee was at the workplace before removal, the date of that employee's positive test for, or diagnosis of, COVID-19, and the date the employee first had one or more COVID-19 symptoms, if any were Experienced