

STEVE SISOLAK  
Governor

STATE OF NEVADA

VICTORIA CARREÓN  
Administrator

TERRY REYNOLDS  
Director



PERRY FAIGIN  
Deputy Administrator

WILLIAM GARDNER  
Chief Administrative Officer

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

**Date: January 25, 2022**

**To: All Employers**

**Re: Voluntary Use of N95 and KN95 Masks (Filtering Facepiece Respirators) to Reduce Risk of Transmission of COVID-19**

This document supersedes guidance released on January 21, 2022. There have been industry concerns related to the influx of filtering facepiece respirators (commonly called N95/KN95 masks) being distributed to the public through pharmacies and community health centers to reduce risk of transmission of COVID-19. This guidance is being provided in an effort to convey important information on current federal regulations related to voluntary use of N95 and KN95 masks.

**What are the current face covering requirements for employees in Nevada?**

This guidance does not change or supersede the Governor's Emergency Directives regarding the requirement to wear face coverings.

Counties with Substantial or High Risk of Community Transmission

- All employers shall provide face coverings<sup>1</sup> for employees and shall require employees to wear a face covering in any indoor public setting<sup>2</sup>. (Required/Ref. Nevada Health Response Guidance on Directive 024: Face Coverings, updated June 24, 2020, available at: <https://nvhealthresponse.nv.gov/wp-content/uploads/2020/06/Guidance-on-Directive-24-Face-Coverings-UPDATED.pdf>; see also Declaration of Emergency Directive #044, section 6; and Declaration of Emergency Directive #045.)

---

<sup>1</sup> Section 4 of Declaration of Emergency Directive #024 states, "For the purposes of this Directive, 'face covering' is defined as covering that fully covers a person's nose and mouth, including without limitation, cloth face masks, surgical masks, towels, scarves, and bandanas." For employees, Nevada OSHA does not recognize face shields as an alternative to or as an effective "face covering." The face covering must effectively control the breathing zone and restrain any expelled or exhaled water droplets within the covering.

<sup>2</sup> Section 2 of Declaration of Emergency Directive #048 defines "indoor public setting" as "any indoor area where people who are not members of the same household may be present. The term includes office buildings, breakrooms, hallways, cafeterias, meeting rooms, and other areas where people may interact, even though the public at large does not have access to the area."

RENO  
4600 Kietzke Lane,  
Building F-153  
Reno, NV 89502  
(775) 688-3700

LAS VEGAS  
3360 West Sahara Avenue  
Suite 200  
Las Vegas, NV 89102  
(702) 486-9020

### Counties with Low to Moderate Risk of Community Transmission

- All employers shall provide face coverings for unvaccinated employees and shall require unvaccinated employees to wear a face covering in any indoor public setting. (Required/Ref. Nevada Health Response Guidance on Directive 024: Face Coverings, updated June 24, 2020, available at: <https://nvhealthresponse.nv.gov/wp-content/uploads/2020/06/Guidance-on-Directive-24-Face-Coverings-UPDATED.pdf>; see also Declaration of Emergency Directive #044, section 6; and Declaration of Emergency Directive #045.)

### Requirements for all Counties

- All school staff, regardless of vaccination status and community transmission levels, shall be required to wear face coverings while working in an indoor public setting. (Required/Ref. Nevada Health Response Guidance on Directive 024: Face Coverings, updated June 24, 2020, available at: <https://nvhealthresponse.nv.gov/wp-content/uploads/2020/06/Guidance-on-Directive-24-Face-Coverings-UPDATED.pdf>; see also Declaration of Emergency Directive #044, section 6; Declaration of Emergency Directive #045; and Declaration of Emergency Directive #048, Section 5.)

### **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?**

Not all employees need to wear N95/KN95 masks in Nevada 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.

Nevada OSHA will use its enforcement discretion to provide employers 60 days from the date of this letter to show that they have complied with these notification requirements.

**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.

**Is an employer required to create a written Respiratory Protection Program when employees voluntarily wear N95/KN95 masks (filtering facepiece respirators in the workplace)?**

Per 29 CFR 1910.134(c)(2)(ii), if employees are solely using *filtering facepiece respirators* on a *voluntary* basis a written Respiratory Protection Program is not required.

Per 29 CFR 1910.134(c)(1), if employees are using *any type of respirator* that is *required by the employer* or *necessary to protect their health* a written Respiratory Protection Program is required. Employers are required to assess respiratory hazards in the workplace and take the steps necessary to protect employees. For example, some industries may have higher risk of exposure to COVID-19, such as the nursing industry, where an employer may determine that respirators are needed to protect the health of employees.

If you have any questions or concerns about this information, please do not hesitate to contact Nevada OSHA at 775-688-3700 (north) or 702-486-9020 (south).

## **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.