

STEVE SISOLAK
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STATE OF NEVADA

VICTORIA CARREÓN
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Deputy Administrator

WILLIAM GARDNER
Chief Administrative Officer

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

Date: January 21, 2022

To: All Employers

Re: Voluntary Use of N95 and KN95 Masks - Filtering Facepiece Respirators

This guidance is in response to 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. 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.

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

Yes, employers may allow employees to voluntarily wear N95/KN95 masks 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?

Per 29 CFR 1910.134(k)(6), the information contained in Appendix D can be provided in any written or oral format. For the purposes of compliance, Nevada OSHA will seek some type of proof that this information was provided to employees. Some examples of compliant communication of Appendix D are:

- A group-signed tailgate document with the language of Appendix D contained on the body of the document.
- An email containing Appendix D language with employees responding that they have received the information.
- Onboarding/training software with user-prompted acknowledgement.
- Individually signed notices containing Appendix D language.

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

Does an employer have to fit test or medically evaluate employees voluntarily wearing 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 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.

Please note that this guidance does not change or supersede the Governor's Emergency Directives regarding the requirement to wear face coverings. Employers do not need to require filtering facepiece respirators to comply with state face covering requirements at this time.

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.