**OSHA’s Respiratory Protection Standard 29 CFR 1910.134**

**July 13, 2022**

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**Chat Questions & Answers**

**Q: Do employees who are using respirators for voluntary use need to be fit tested?**

**A:** Voluntary use of respirators does NOT require a fit test, and Richard was right in that if there were an exposure hazard then respirators would be required.

Further explanation: 1910.134(c)(2)(i) An employer may provide respirators at the request of employees or permit employees to use their own respirators if the employer determines that such respirator use will not in itself create a hazard. If the employer determines that any voluntary respirator use is permissible, the employer shall provide the respirator users with the information contained in appendix D to this section ("Information for Employees Using Respirators When Not Required Under the Standard"); and

1910.134(c)(2)(ii) In addition, the employer must establish and implement those elements of a written respiratory protection program necessary to ensure that any employee using a respirator voluntarily is medically able to use that respirator, and that the respirator is cleaned, stored, and maintained so that its use does not present a health hazard to the user. Exception: Employers are not required to include in a written respiratory protection program those employees whose only use of respirators involves the voluntary use of filtering facepieces (dust masks).

Here is an OSHA interpretation addressing this

February 6, 2006 - [Facial hair and voluntary use of filtering facepiece respirators. | Occupational Safety and Health Administration (osha.gov)](https://www.osha.gov/laws-regs/standardinterpretations/2006-02-06-0)

Excerpts from this directive

“…Response: No, the voluntary use of respirators **in atmospheres which are** **not hazardous** does not require the mask to be fit tested or the wearer to a maintain a tight fit…” and

April 26, 2018 - [Voluntary use respirators | Occupational Safety and Health Administration (osha.gov)](https://www.osha.gov/laws-regs/standardinterpretations/2018-04-26)

Excerpt from this directive

**Question 2:**If the employer allows voluntary use of respirators, is the employer required to fit test the employees?

**Response 2:**No, the voluntary use of respirators in work atmospheres which are not hazardous does not require the respirator wearer to be fit tested. Please see the letter of interpretation from [Mr. Gordon C. Miller, February 6, 2006](https://www.osha.gov/laws-regs/standardinterpretations/2006-02-06-0) (attached).

**Q: If there were legitimate risk factors though, wouldn't the respirator be mandatory, and not voluntary?**

**A:** Yes, you are correct as stated above if there were an exposure hazard then respirators would be required.

**Q: Our NAICS code identifies us as Agriculture. However, AG standards are minimal for Respirator use, and do not require medical testing. Much of what our operation does is truly general industry, and I've tried to write all of our safety programs to general industry since they are more thorough. Any guidance on 1) why there are differences between Ag and General industry in this regard, and 2) how to convince employer that doing the medical is necessary and valid (Provide a workplace free from recognized hazards)?**

**A:** Part 1: the agriculture industry generally is not covered under 29 CFR 1910.134. “This section applies to General Industry (part 1910), Shipyards (part 1915), Marine Terminals (part 1917), Longshoring (part 1918), and Construction (part 1926). Agriculture (part 1928) is not covered. However, if you are using pesticides, you would be covered under EPA’s Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), specifically 40 CFR 170.507(b)(10) which requires employers to comply with 29 CFR 1910.134 when applying pesticides. 170.507(b)(10)(iii) specifically indicates medical evaluations.

In addition, outside of making your companies safety and health policies a condition of employment, when trying to convince employees, medical approval is necessary to ensure the employee is healthy enough to wear the indicated respirator for the required amount of time. If one is not fit to wear the respirator as indicated, the stress of wearing the respirator could be detrimental for the employee... the heart or respiratory systems may not be able to withstand the stress.

**Q: Does the medical questionnaire need to be completed by a physician? Can an RN or LPN be present during the medical questionnaire when employees are completing it for fit testing?**

**A:** If they meet these requirements... Physician or other licensed health care professional (PLHCP) means an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide, or be delegated the responsibility to provide, some or all of the health care services required by paragraph (e) of this section. Each state certifies their PLHCP.

September 2, 2014 - [Clarification on whether a Registered Nurse can act as a licensed health care professional for purposes of conducting a respiratory protection medical evaluation | Occupational Safety and Health Administration (osha.gov)](https://www.osha.gov/laws-regs/standardinterpretations/2014-09-02-0)

Excerpt: “…**Question:** Can a Registered Nurse licensed in the state of Wisconsin be classified as a licensed health care provider for purposes of conducting medical evaluations for respirator use under OSHA's Respiratory Protection standard, 29 CFR 1910.134?

**Response:** Paragraph 29 CFR 1910.134(e)(2)(i) of the Respiratory Protection Standard states that, "The employer shall identify a physician or other licensed health care professional (PLHCP) to perform medical evaluations using a medical questionnaire or an initial medical examination that obtains the same information as the medical questionnaire." The term PLHCP means "**an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the health care services required by paragraph (e) of this section**."

A variety of health care professionals may perform medical evaluations for respirator use depending on the scope of practice permitted by the state's licensing, registration, or certification agencies, in your case the state of Wisconsin. Therefore, you may wish to contact the Wisconsin Department of Safety and Professional Services, Board of Nursing, to determine if Registered Nurses licensed in Wisconsin can, under state law, independently perform this evaluation, or if they must do so under the direction of a licensed physician. You can reach this agency at:

January 2, 1999 - [Clarification of a PLHCP under the Respiratory protection standard. | Occupational Safety and Health Administration (osha.gov)](https://www.osha.gov/laws-regs/standardinterpretations/1999-01-02)

Excerpt: “…Your question concerns the definition of "Physician or other licensed health care professional" (PLHCP) that appears in the revised Respiratory Protection standard, CFR 1910.134. You have asked if the definition implies that the physician is also a licensed heath care provider. You state that some federal hospitals have physicians not licensed in **any state** and they are practicing medicine.

OSHA requires that the PLHCP (the acronym includes the physician) must be legally permitted by his or her professional license to conduct the type of medical evaluation required by the respiratory standard. The scope of their practice is **determined by their state license**, registration, or certification. In Federal facilities, the physicians must be licensed by some state, but it is not required that they are licensed in the state they are practicing. To meet the OSHA requirement, the physician who is not licensed in any state, working in a Federal facility, could conduct the medical evaluation as long as they are working under the supervision of a licensed PLHCP. As you have pointed out, a licensed physician is required in other OSHA standards, such as OSHA's Asbestos standard, 1926.1101.

October 16, 1998 - [Conduct of respiratory protection medical evaluations by medical technicians. | Occupational Safety and Health Administration (osha.gov)](https://www.osha.gov/laws-regs/standardinterpretations/1998-10-16)

Excerpt: “…In your letter, you mentioned that medical technicians conduct the medical evaluations under the direction of a designated licensed occupational physician. The medical technicians conduct and evaluate the occupational history questionnaire, a physical exam, and a pulmonary function test. As described in your letter, the physician performs a further medical evaluation when an employee fails the initial medical evaluation. Further, the physician reviews the medical program periodically.  
  
The new Respiratory Protection Standard states that, "The employer shall identify a physician or other licensed health care professional (PLHCP) to perform medical evaluations using a medical questionnaire or an initial medical examination that obtains the same information as the medical questionnaire." The term PLHCP "means an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the health care services required by paragraph (e) of this section." Since the medical technicians are operating under the direction of the company physician, he or she should be able to obtain this information for you.  
  
From the information that you provided, it is unclear that the medical technicians that you described are able to conduct and **evaluate** the medical evaluations. Your letter does not indicate that the medical technicians are certified and if the State of Texas defines the scope of practice for Certified Medical Technicians as being able to perform this type of work. You may wish to contact the Texas Department of Health, Bureau of Emergency Management for information on the scope of practice for medical technicians.

**Q: If a company does not have a PortaCount is there another method that would qualify and meet requirements for quantitative fit testing?**

**A:** There are 6 approved quantitative methods spelled out in appendix A of the standard [1910.134 App A - Fit Testing Procedures (Mandatory). | Occupational Safety and Health Administration (osha.gov)](https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134AppA)

In addition, slide 51 indicates 6 methods three DEHP, Dynatech Fittester 3000 and REDON are not PortaCount models

* Generated Aerosol (corn oil, salt, DEHP)
* Condensation Nuclei Counter (CNC - PortaCount)
* Modified Condensed Nuclei Counter for Full/half mask elastomeric respirators (CNC – PortaCount) – different exercises
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* Controlled Negative Pressure (**Dynatech FitTester 3000**)
* Controlled Negative Pressure (CNP) **REDON**

**Q: Your answer flies in the face of the "voluntary" use indicated. What if an employee voluntarily uses a respirator but is medically unfit to safely do so? My understanding has always been that if a "respirator" is on site at all, it must be provided by the employer and appropriate, a fit test must be done, and the employee must be medically evaluated to determine that it is safe to use.**

**A:** **1) medically unfit**: For voluntary use, a medical evaluation is required for tight fitting respirators because of the additional stress on the respiratory system. If there is not an airborne hazard and a respirator is not needed/required but the employee wants to voluntarily use the respirator they can (and if tight fitting they must be medically approved),

2) **Employer must provide**: Voluntary use respirators can be provided by the employee if the employer allows it.

1910.134(c)(2) **Where respirator use is not required**:

[1910.134(c)(2)(i)](https://www.osha.gov/laws-regs/interlinking/standards/1910.134(c)(2)(i)) An employer may provide respirators at the request of employees **or permit employees to use their own** respirators if the employer determines that such respirator use will not in itself create a hazard. If the employer determines that any voluntary respirator use is permissible, the employer shall provide the respirator users with the information contained in appendix D to this section ("Information for Employees Using Respirators When Not Required Under the Standard"); and

1910.134(c)(2)(ii) In addition, the employer must establish and implement those elements of a written respiratory protection program necessary to ensure that any employee using a respirator voluntarily is medically able to use that respirator, and that the respirator is cleaned, stored, and maintained so that its use does not present a health hazard to the user. Exception: Employers are not required to include in a written respiratory protection program those employees whose only use of respirators involves the voluntary use of filtering facepieces (dust masks).

Here are interpretations related to 1910.134(c)(2) [Interlinking | Occupational Safety and Health Administration (osha.gov)](https://www.osha.gov/laws-regs/interlinking/standards/1910.134(c)(2)/standard_interpretations) and 1910.134(c)(2)(ii) [Interlinking | Occupational Safety and Health Administration (osha.gov)](https://www.osha.gov/laws-regs/interlinking/standards/1910.134(c)(2)(ii)/standard_interpretations)

3) **Fit test must be performed:** A fit test is not required for voluntary used because what is the hazard, we are trying to protect the employee from? if not a hazard, no fit test required. To repeat, If there is not an airborne hazard and a respirator is not needed/required but the employee wants to voluntarily use the respirator they can if approved by the employer (and if tight fitting they must be medically approved), See the first question and response and interpretations list there and in this answer above.