**Steps All Employers Can Take to Reduce Workers’ Risk of Exposure**

**to SARS-CoV-2 (COVID-19)**

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**Presented by: Bryan Brougher, CSP; Dane Sprankle, MS, CSP; Richard Mason, CSP, CIH, CHMM**

**Chat Questions & Answers**

**Q1: How should we communicate to the other employees in that area of someone ill (without violating HIPAA)?**

A: As far as isolation, an employee exhibiting symptoms can be approached privately and a decision made to isolate. At this point you don't know whether or not the employee has covid-19. As always when new procedures are introduced, it is best if employees are advised in advance of your covid-19 procedures. Be aware that although the Office of Civil Rights announced Notification of Enforcement Discretion to Allow Uses and Disclosures of Protected Health Information by Business Associates for Public Health and Health Oversight Activities During The COVID-19 Nationwide Public Health Emergency, it applies only to sharing information with the CDC, Centers for Medicare and Medicaid Services (CMS), or a similar health oversight agencies at the state level. (<https://www.hhs.gov/hipaa/for-professionals/special-topics/hipaa-covid19/index.html> ).

**Q2: Do you have any suggestions on how we can implement the face mask preventative measure when the face masks are not available to medical personnel let alone manufacturing plants?**

A: On April 03, 2020 OSHA released a memorandum for interim guidance “Enforcement Guidance for Use of Respiratory Protection Equipment Certified under Standards of Other Countries or Jurisdictions During the Coronavirus Disease 2019 (COVID-19) Pandemic.”<https://www.osha.gov/memos/2020-04-03/enforcement-guidance-use-respiratory-protection-equipment-certified-under>

This memorandum states in part: …

“… All employers should:

* Make a good-faith effort to provide and ensure workers use the most appropriate respiratory protection available for the hazards against which workers need to be protected. This should be accomplished through, in this order:
	+ Implementing the hierarchy of controls in an effort first to eliminate or substitute out workplace hazards, then using engineering controls, administrative controls, and safe work practices to prevent worker exposures to respiratory hazards.
	+ Prioritizing efforts to acquire and use equipment in the following order:
		- * NIOSH-certified equipment; then
			* Equipment certified in accordance with standards of other countries or jurisdictions except the People’s Republic of China, unless equipment certified in accordance with standards of the People’s Republic of China is manufactured by a NIOSH certificate holder[[6]](https://www.osha.gov/memos/2020-04-03/enforcement-guidance-use-respiratory-protection-equipment-certified-under%22%20%5Cl%20%22_ftn6%22%20%5Co%20%22Footnote%206); then
			* Equipment certified in accordance with standards of the People's Republic of China, the manufacturer of which is not a NIOSH certificate holder[[6]](https://www.osha.gov/memos/2020-04-03/enforcement-guidance-use-respiratory-protection-equipment-certified-under#_ftn6); then
			* Facemasks (e.g., medical masks, procedure masks).
	+ Prioritizing efforts to acquire and use equipment that has not exceeded its manufacturer’s recommended shelf before allowing workers to use equipment that is beyond its manufacturer’s recommended shelf life. Equipment used beyond its manufacturer’s recommended shelf life must be used in accordance with OSHA’s April 3, 2020 memorandum.
	+ Prioritizing efforts to use equipment that has not exceeded its intended service life (e.g., disposable FFRs used for the first time) before implementing protocols for extended use or reuse of equipment. Extended use or reuse of equipment should follow the Centers for Disease Control and Prevention’s [*Strategies for Optimizing the Supply of N95 Respirators*](https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/index.html).
	+ Using homemade masks or improvised mouth and nose covers only, as a last resort (i.e., when no respirators or facemasks are available).  Improvised masks are not personal protective equipment and, ideally, should be used with a face shield to cover the front and sides of the face.  When this measure is the only resort, refer to the Centers for Disease Control and Prevention (CDC) guidance at [www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/face-masks.html](https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/face-masks.html).
* Ensure users perform a user seal check each time they don a respirator, regardless of whether it is a NIOSH-certified device or device certified under standards of other countries or jurisdictions, and do not use a respirator on which a user cannot perform a successful user seal check.  *See* 29 CFR § 1910.134, Appendix B-1, [*User Seal Check Procedures*](https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134AppB1).[[7]](https://www.osha.gov/memos/2020-04-03/enforcement-guidance-use-respiratory-protection-equipment-certified-under%22%20%5Cl%20%22_ftn7%22%20%5Co%20%22Footnote%207)
* Train workers to understand that if the structural and functional integrity of any part of the respirator is compromised, it should be discarded, and that if a successful user seal check cannot be performed, another respirator should be tried to achieve a successful user seal check.
* Visually inspect, or ensure that workers visually inspect, the FFRs to determine if the structural and functional integrity of the respirator has been compromised.  Over time, components such as the straps, nose bridge, and nose foam material may degrade, which can affect the quality of the fit and seal.
* Avoid co-mingling products from different categories of equipment.  NIOSH-certified equipment, equipment that was previously NIOSH-certified but that has surpassed its manufacturer’s recommended shelf life, equipment certified under standards of other countries or jurisdictions, and equipment that was previously certified under standards of other countries or jurisdictions but that has surpassed its manufacturer’s recommended shelf life should be stored separately.
* Train employees on the procedures for the sequence of donning/doffing to prevent self-contamination.  *See* [www.cdc.gov/niosh/npptl/pdfs/PPE-Sequence-508.pdf](https://www.cdc.gov/niosh/npptl/pdfs/PPE-Sequence-508.pdf).

*Healthcare employers only*:

* When HCP perform surgical procedures on patients infected with, or potentially infected with, SARS-CoV-2 or perform or are present for procedures expected to generate aerosols or procedures where respiratory secretions are likely to be poorly controlled (e.g., cardiopulmonary resuscitation, intubation, extubation, bronchoscopy, nebulizer therapy, sputum induction):
	+ Respiratory protection equipment certified exclusively in accordance with standards of the People's Republic of China and manufactured by companies that are not NIOSH approval holders must not be used unless the only feasible alternative is a facemask or improvised nose/mouth cover[[6]](https://www.osha.gov/memos/2020-04-03/enforcement-guidance-use-respiratory-protection-equipment-certified-under#_ftn6);
	+ In accordance with CDC guidance for optimizing the supply of respirators, employers should prioritize the use of N95 respirators by activity type. When HCP perform or are present for aerosol-generating procedures or procedures where respiratory secretions are likely to be poorly controlled, use respirators (including N95 FFRs; other FFRs; non-disposable, elastomeric respirators; and powered, air-purifying respirators (PAPRs)) that are still within their manufacturer’s recommended shelf life, if available, before using respirators that are beyond their manufacturer’s recommended shelf life.  See [www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/contingency-capacity-strategies.html](https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/contingency-capacity-strategies.html).  The CDC guidance also addresses scenarios in which other crisis standards of care may need to be considered, but this enforcement guidance is not intended to cover those scenarios.
* It is reasonable for healthcare employers to reserve some NIOSH- or foreign-certified N95 FFRs or better respirators for use by HCP who are expected to perform surgical procedures on patients infected with, or potentially infected with, SARS-CoV-2 or perform or be present for procedures expected to generate aerosols or procedures where respiratory secretions are likely to be poorly controlled. In such cases, and particularly when workers performing other tasks are provided with alternative equipment, employers should be able to provide a reasonable rationale for their decision to stockpile respirators appropriate to protect workers during aerosol-generating procedures…”

**Q3: What about first aid providers?**

A: There are more specific guidelines for health care and EMS such as those provided by CDC. In the OSHA document “Guidance of Preparing Workplaces for COVID-19" - Document OSHA 3990-03: 2020, <https://www.osha.gov/Publications/OSHA3990.pdf>. Starting on page 23, with the chapter “Jobs Classified at High or Very High Exposure Risk: What to Do to Protect Workers” has information that would help EMS

**Q4: Don't we have to ensure that someone is healthy before they return to work?**

A: Yes, according to CDC guidelines, but this is not an OSHA document. Sick employees should follow CDC-recommended steps. Employees should not return to work until the criteria to discontinue home isolation are met, in consultation with healthcare providers and state and local health departments.

Employees who are well but who have a sick family member at home with COVID-19 should notify their supervisor and follow CDC recommended precautions.

**Q5: How do we handle the PPE requirement for fit testing for respirators provided by the employee?**

A: A surgical mask on a sick person should not be confused with PPE for a worker; the mask acts to contain potentially infectious respiratory secretions at the source (i.e., the person’s nose and mouth).

Protect workers in close contact\* with the sick person by using additional engineering and administrative control, safe work practices and PPE. Workers required to use PPE must be trained. This training includes when to use PPE; what PPE is necessary; how to properly don (put on), use, and doff (take off) PPE; how to properly dispose of or disinfect, inspect for damage, and maintain PPE; and the limitations of PPE. Applicable standards include the PPE (29 CFR 1910.132), Eye and Face Protection (29 CFR 1910.133), Hand Protection (29 CFR 1910.138), and Respiratory Protection (29 CFR 1910.134) standards. **All types of PPE must be properly fitted and periodically refitted, as applicable (e.g., respirators).**  See other answers to respiratory questions

\*CDC defines "close contact" as being about six (6) feet (approximately two (2) meters) from an infected person or within the room or care area of an infected patient for a prolonged period while not wearing recommended PPE. Close contact also includes instances where there is direct contact with infectious secretions while not wearing recommended PPE. Close contact generally does not include brief interactions, such as walking past a person.

**Q6: Can a worker representing a vulnerable population (e.g., 65 years old and immunocompromised) legally refuse to work if their essential job requires them to extensively contact the public?**

A: Each case is complicated and relies on a number of specific elements. With this caveat, please understand that legitimate work refusals do rely on the following elements:

1. The employee must have sought and been unable to obtain a correction of the danger from the employer (i.e.- can’t just walk off the job/ refuse the assignment without communicating the danger and attempting to have it corrected.)

2. When time and opportunity permit the employee must attempt to eliminate the danger through resort to regular enforcement channel (i.e.- call OSHA- who then will need to assess whether what is being complained about is a “real” danger of death or serious injury).

3. A reasonable person would conclude there is a “real” danger of death or serious injury;

4. A reasonable person under the same circumstances would refuse.

OSHA issued a [press release](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.osha.gov%2Fnews%2Fnewsreleases%2Fnational%2F04082020&data=02%7C01%7Cbrougher%40iup.edu%7Cea5b9176511f4916bfe008d7dbd4a8e2%7C96704ed7a3e14bb8ba918b63ee16883e%7C0%7C0%7C637219578720236467&sdata=spnmwj6F6qVtjYGMzdyL5em2SMa%2Be7fCLEzVIbGtI2k%3D&reserved=0) on April 08 reminding employers that it is illegal to retaliate against workers because they report unsafe and unhealthful working conditions during the coronavirus pandemic. Acts of retaliation can include terminations, demotions, denials of overtime or promotion, or reductions in pay or hours. Employees who are discriminated against may file a whistleblower complaint through their local area office, by calling 1-800-321-OSHA or filing an online complaint form at whistleblowers.gov.

OSHA’s [Whistleblower Protection Program](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Flnks.gd%2Fl%2FeyJhbGciOiJIUzI1NiJ9.eyJidWxsZXRpbl9saW5rX2lkIjoxMDIsInVyaSI6ImJwMjpjbGljayIsImJ1bGxldGluX2lkIjoiMjAyMDA0MDguMTk5MDcxMjEiLCJ1cmwiOiJodHRwczovL3d3dy53aGlzdGxlYmxvd2Vycy5nb3YvIn0.rtJF2qb8us92BaqvQt2_M32-Rl22xg4dSUzuG8S2whA%2Fbr%2F77160744106-l&data=02%7C01%7Cbrougher%40iup.edu%7Cea5b9176511f4916bfe008d7dbd4a8e2%7C96704ed7a3e14bb8ba918b63ee16883e%7C0%7C0%7C637219578720236467&sdata=GPmh4XawNR9UcekiLSvJtDZqWSUErX1xOOlnQwgbB0Q%3D&reserved=0) webpage provides valuable resources on worker rights, including [fact sheets on whistleblower protections](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Flnks.gd%2Fl%2FeyJhbGciOiJIUzI1NiJ9.eyJidWxsZXRpbl9saW5rX2lkIjoxMDMsInVyaSI6ImJwMjpjbGljayIsImJ1bGxldGluX2lkIjoiMjAyMDA0MDguMTk5MDcxMjEiLCJ1cmwiOiJodHRwczovL3d3dy5vc2hhLmdvdi9wbHMvcHVibGljYXRpb25zL3B1YmxpY2F0aW9uLmF0aHJ1ej9wVHlwZT1JbmR1c3RyeSZwSUQ9MjI1In0.IWG0hIgquapEeWkMl4jQ3AxIpP803jdJISBLx-p-NGM%2Fbr%2F77160744106-l&data=02%7C01%7Cbrougher%40iup.edu%7Cea5b9176511f4916bfe008d7dbd4a8e2%7C96704ed7a3e14bb8ba918b63ee16883e%7C0%7C0%7C637219578720246460&sdata=Qoyy6DNVWLQNLg4w1tOoPeKduF0ufFlxdV%2FarB6W69U%3D&reserved=0) for employees in various industries and [frequently asked questions](https://nam04.safelinks.protection.outlook.com/?url=https%3A%2F%2Flnks.gd%2Fl%2FeyJhbGciOiJIUzI1NiJ9.eyJidWxsZXRpbl9saW5rX2lkIjoxMDQsInVyaSI6ImJwMjpjbGljayIsImJ1bGxldGluX2lkIjoiMjAyMDA0MDguMTk5MDcxMjEiLCJ1cmwiOiJodHRwczovL3d3dy53aGlzdGxlYmxvd2Vycy5nb3YvZmFxIn0.BA1EDxHIjY9MvYP4JZ5WnVBbJNqJvMIHdqWsAenw_8c%2Fbr%2F77160744106-l&data=02%7C01%7Cbrougher%40iup.edu%7Cea5b9176511f4916bfe008d7dbd4a8e2%7C96704ed7a3e14bb8ba918b63ee16883e%7C0%7C0%7C637219578720246460&sdata=aIzbqjXjNPWJQlPpzO%2Bl2BIKHl9e5uYtHN3vRC6g2Gs%3D&reserved=0).

**Q7: Are there other precautions first aid providers should take and what if they get sick after treating a person with COVID-19? Is OSHA reporting on the 300 required?**

A: As demonstrated in question 3 above, there are more specific guidelines for health care and EMS such as those provided by CDC. In the OSHA document “Guidance of Preparing Workplaces for COVID-19" - Document OSHA 3990-03: 2020, <https://www.osha.gov/Publications/OSHA3990.pdf>. Starting on page 23, with the chapter “Jobs Classified at High or Very High Exposure Risk: What to Do to Protect Workers” has information that would help EMS. If COVID-19 exposure comes about from the result of a work-related activity, and the exposure meets criteria within 29 CFR 1904, such as a work related death, lost time, restricted or transfer of duties, or medical treatment beyond first aid, then it would be recordable on the OSHA 300 log. See <https://www.osha.gov/memos/2020-04-10/enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>

**Q8: I thought that the use of the non-NIOSH respirators were only approved for medical use only. This goes the same for the fit testing - fit testing requirements are temporarily waived for medical only. All employers are still to fit test. Is this not the case?**

A: This is a two-part question:

1. Regarding NIOSH approved respirators – On April 3, 2020 OSHA released a memorandum for interim guidance (the same memo mention in question #2), “Enforcement Guidance for Use of Respiratory Protection Equipment Certified under Standards of Other Countries or Jurisdictions During the Coronavirus Disease 2019 (COVID-19) Pandemic.” <https://www.osha.gov/memos/2020-04-03/enforcement-guidance-use-respiratory-protection-equipment-certified-under>

States… “Specifically, it outlines enforcement discretion to permit the use of FFRs and air-purifying elastomeric respirators that are either:

* Certified under certain standards of other countries or jurisdictions, as specified below; or
* When equipment certified under standards of other countries or jurisdictions is not available, previously certified under the standards of other countries or jurisdictions but are beyond their manufacturer’s recommended shelf life (i.e., expired).

This guidance applies in all industries, including workplaces in which:

* Healthcare personnel (HCP) are exposed to patients with suspected or confirmed coronavirus disease 2019 (COVID-19) and other sources of SARS-CoV-2 (the virus that causes COVID-19).
* **Protection of workers exposed to other respiratory hazards is impacted by the shortage resulting from the response to the COVID-19 pandemic. Such workplace respiratory hazards may be covered by one or more substance-specific health standards.**

Our previous memoranda, *Temporary Enforcement Guidance - Healthcare Respiratory Protection Annual Fit-Testing for N95 Filtering Facepieces During the COVID-19 Outbreak*, issued on March 14, 2020, and *Enforcement Guidance for Respiratory Protection and the N95 Shortage Due to the Coronavirus Disease 2019 (COVID-19) Pandemic*, issued on April 3, 2020, provided temporary guidance for 29 CFR § 1910.134, regarding required annual fit testing of HCP and use of respirators beyond their manufacturer’s recommended shelf life, respectively.1 This memorandum provides additional guidance on enforcing OSHA’s Respiratory Protection standard (and other health standards that require respiratory protection) for all workers, including HCP. In light of the essential need for adequate supplies 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...

….

… In some circumstances, additional supplies of respirators certified under standards from other countries or jurisdictions may be available. During periods of shortages of N95 FFRs, the federal government advises that FFRs, air-purifying elastomeric respirators, and compatible filters certified under the following standards of other countries or jurisdictions will provide greater protection than surgical masks (i.e., facemasks, other than surgical N95s3), homemade masks, or improvised mouth and nose covers, such as bandanas and scarves:

* Australia: AS/NZS 1716:2012
* Brazil: ABNT/NBR 13694:1996; ABNT/NBR 13697:1996; and ABNT/NBR 13698:2011
* People’s Republic of China: GB 2626-2006; and GB 2626-2019
* European Union: EN 140-1999; EN 143-2000; and EN 149-2001
* Japan: JMHLW-2000
* Republic of Korea: KMOEL-2014-46; and KMOEL-2017-64
* Mexico: NOM-116-2009

Certification in accordance with these standards ensures that devices provide similar filtration as NIOSH-certified equipment, as described in Tables 1 and 2, below, and, accordingly, have an assigned protection factor greater than or equal to 10.

 …“

1. Regarding fit testing OSHA temporarily only waived the annual fit testing for medical personnel (non-medical personnel were not waived), as illustrated in OSHA’s memorandum of March 14, 2020 <https://www.osha.gov/memos/2020-03-14/temporary-enforcement-guidance-healthcare-respiratory-protection-annual-fit>, but as of 4/8/2020 it has been expanded across all industries. Initial fit testing is still required.

Memorandum April 8, 2020, “Expanded Temporary Enforcement Guidance on Respiratory Protection Fit-Testing for N95 Filtering Facepieces in All Industries During the Coronavirus Disease 2019 (COVID-19) Pandemic” <https://www.osha.gov/memos/2020-04-08/expanded-temporary-enforcement-guidance-respiratory-protection-fit-testing-n95>

states … “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.

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.”

**Q9: If employees bring their own n95 respirators, are employers still required to go over Appendix D with the employee?**

A: 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).

**Q10: Is COVID - 19 a reportable illness under OSHA regs?**

A: If COVID-19 exposure comes about from the result of a work-related activity, and the exposure meets criteria within 29 CFR 1904, such as a work related death, lost time, restricted or transfer of duties, or medical treatment beyond first aid, then it would be recordable on the OSHA 300 log. See <https://www.osha.gov/memos/2020-04-10/enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>

**Q11: One of the items was "don't require a medical excuse". i think we have a problem as this will conflict with the new leave act, which requires us to obtain information to determine whether the leave will be paid or not.**

A: The guidance from OSHA does not require a healthcare provider’s note for employees who are sick with acute respiratory illness to validate their illness or to return to work, as healthcare provider offices and medical facilities may be extremely busy and not able to provide such documentation in a timely way.