

## Public Sector Enforcement Guidance for N95 Respirators

On Sunday, March 15, 2020 Governor Janet Mills signed a Civil Emergency Proclamation to Respond to COVID-19 in Maine. This Emergency Proclamation gives her the authority to suspend the enforcement of laws.

Effective March 23, 2020 the Maine Department of Labor, Bureau of Labor Standards will temporarily adopt the Occupational Safety and Health Administration's (OSHA) enforcement guidance for N95 respirators for state and local government healthcare employers.

OSHA's temporary enforcement guidance recommends that healthcare employers change from a quantitative fit testing method to a qualitative testing method to preserve the integrity of N95 respirators. Additionally, OSHA field offices have the discretion to not cite an employer for violations of the annual fit testing requirement as long as employers:

- Make a good faith effort to comply with the respiratory protection standard;
- Use only NIOSH-certified respirators;
- Implement strategies recommended by OSHA and Centers for Disease Control and Prevention for optimizing and prioritizing N95 respirators;
- Perform initial fit tests for each healthcare employee with the same model, style, and size respirator that the employee will be required to wear for protection from coronavirus;
- Tell employees that the employer is temporarily suspending the annual fit testing of N95 respirators to preserve the supply for use in situations where they are required to be worn;
- Explain to employees the importance of conducting a fit check after putting on the respirator to make sure they are getting an adequate seal;
- Conduct a fit test if they observe visual changes in an employee's physical condition that could affect respirator fit; and
- Remind employees to notify management if the integrity or fit of their N95 respirator is compromised. <https://www.osha.gov/memos/2020-03-14/temporary-enforcement-guidance-healthcare-respiratory-protection-annual-fit>

The temporary guidance will remain in effect until further notice.

## Questions and Answers

1. Has BLS waived the fit testing requirements for respiratory protection?

No, due to potential shortages of N95 respirators, BLS is temporarily waiving the annual fit testing requirement for this type of respirator only. In addition, you are still required to have an initial fit test.

2. Should we perform quantitative or qualitative fit testing?

Due to potential shortages of N95 respirators, BLS is recommending qualitative fit testing. This is a less destructive means of fit testing.

3. Are we required to have a written respiratory protection program?

Yes, if you use respirators. However, if you are only using N95 respirators, BLS has a model program your employer can use.

4. Are we required to have annual respiratory protection training?

Yes, if you use respirators. However, BLS has a PowerPoint your employer can use along with training over the written respiratory protection program. At a minimum, employer must review with employees their written program.

5. Are medical evaluations required?

Yes, prior to the fit test. After initial medical evaluation, public sector also requires medical evaluations be conducted at the following schedule based on age.

|            |                            |   |                        |
|------------|----------------------------|---|------------------------|
| Employees: | Up through 35 years of age | - | at least every 5 years |
|            | 36 to 40 years of age      | - | at least every 2 years |
|            | Over 40 years old          | - | at least annually      |

### Medical evaluation procedures.

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.

Maine BLS defines PLHCP as, a physician, nurse practitioner, physician assistant, or registered nurse that can perform the medical evaluations. The medical evaluation requires at a minimum a review of the medical evaluation form that is linked below, and clarification of any “yes” responses. This evaluation can often be accomplished right over the phone with no need to see your PLHCP. Please check with your individual healthcare provider for any additional requirements.

Medical questionnaires are considered Protected Health Information. No medical information may be shared with an employer.

<https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134AppC>

Fit Testing and Fit Check Video Clips:

<https://www.youtube.com/watch?v=xl4qX6qEYXU>

<https://www.youtube.com/watch?v=05wyH1-mLGk&feature=youtu.be>

Sample Written Respiratory Protection and PowerPoint Training Programs:



Public Sector N-95  
Respirator Program.



Respirator Fit  
Testing\_Saccharin ar



Qualitative Fit Test  
Form.docx