

# OSHA Considerations for Employers Deciding Whether to Require or Allow Use of Face Masks in the Workplace

Alert

04.13.2020

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The Centers for Disease Control and Prevention (CDC) recently recommended the use of cloth face coverings in public as an “additional, voluntary public health measure” to slow the spread of COVID-19. Because “the virus can spread between people interacting in close proximity” even when not showing any symptoms, the CDC recommends wearing these face coverings “in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission.” How to translate these recommendations to the workplace is a question being asked across the country by essential businesses and those in the critical infrastructure sectors. It is a question that will continue to be asked as stay-at-home orders begin to be lifted.

While no agency has come out and said it, incorporating personal protective equipment (PPE) or respirators into daily business operations can trigger regulatory obligations like OSHA requirements. OSHA has identified three standards as the most relevant to COVID-19 preparation and response: the PPE standard, the respiratory protection standard and OSHA’s general duty clause (GDC).

Evaluating whether to allow or require face masks for their workforce should be undertaken in the context of OSHA’s [potentially relevant standards](#) including:

- **Personal Protective Equipment:** When evaluating whether to require PPE (respirators, gloves, etc.), OSHA requires a hazard assessment and alternatives analysis. If PPE is required, there are additional obligations such as training, maintaining the PPE and recordkeeping.

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- **Respiratory Protection Standard:** OSHA regulations broadly define “respirators” to include dust masks (also called “filtering facepieces”) and other face coverings such as N-95 masks. Under the regulations, requiring or even permitting respirator use may trigger obligations under the respiratory protection standard.
- **OSHA GDC:** OSHA’s catch-all general duty clause requires employers to provide a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm. OSHA has issued general workplace guidance that can assist with complying with the GDC, but the GDC is a moving target based in part on industry standards.

To date, neither OSHA nor the CDC *require* the use of these face coverings at non-medical facilities because of COVID-19. However, as employers evaluate how to protect the health of their workforces and the continuity of their businesses, before allowing or requiring face masks, they should consider:

- **Whether use of face masks is voluntary or mandatory:** If an employer *requires* use of respirators in the workplace, under the respiratory protection standard, the employer is required to “establish and implement a written respiratory protection program with worksite-specific procedures.” This is a detailed and structured program that must be run by a trained program administrator; it takes time and resources to set up. In contrast, if masks are voluntarily allowed, the respiratory protection program requirements are greatly reduced.
- **The type of mask:** OSHA regulations distinguish between two general categories of face masks: filtering facepieces (i.e., dust masks), and all other respirators. If the masks used are filtering facepieces, employers must first determine “that such respirator use will not itself create a hazard” and provide employees with specified information. Other respirators require a fuller respiratory protection program be developed and implemented. OSHA has not yet provided guidance on whether cloth face coverings trigger the respiratory protection standard requirements.
- **Who should provide masks:** When voluntarily allowing face masks, employers should consider whether masks should be provided by the employer for voluntary use and, if so, whether training should be provided to ensure employees use them correctly. Employers who require respirators must provide them to employees at no cost in accordance with their respiratory protection program.
- **Communication to employees:** Employers should consider the messaging when rolling out new PPE to employees. OSHA has received thousands of complaints from employees about workplace safety, including no face masks, inadequate face masks and requiring face masks. Oregon’s OSHA program logged almost 3,000 complaints in just over a month. Providing information to employees in a way that helps them understand that their employers are committed to a safe and healthful work environment can have the mutual benefit of reducing employee complaints to OSHA.

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- **Constantly reassess:** OSHA compliance is a moving target. While OSHA has not issued guidance at the pace of the CDC, it has been largely deferential to CDC guidance so keeping up to date on both OSHA and CDC actions is crucial. In addition, employers should continue to keep up with what is happening with COVID-19 in their community and in their business, and make adjustments as needed.

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