



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

May 6, 2021

**MEMORANDUM**

**SUBJECT:** Amendment to the June 1, 2020, Statement Regarding Respiratory Protection Shortages and Reduced Availability of Respirator Fit Testing Related to Pesticide Uses Covered by the Agricultural Worker Protection Standard during the COVID-19 Public Health Emergency

**FROM:** Michal Freedhoff, Principal Deputy Assistant Administrator  
Office of Chemical Safety and Pollution Prevention

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**TO:** Pesticide Lead Regulatory Agencies, Agricultural Handler Employers under the Worker Protection Standard, and Pesticide Handlers of Pesticide Products Bearing Respiratory Protection Requirements

On June 1, 2020, EPA issued a “Statement Regarding Respiratory Protection Shortages and Reduced Availability of Respirator Fit Testing Related to Pesticide Uses Covered by the Agricultural Worker Protection Standard during the COVID-19 Public Health Emergency” to provide guidance for agricultural employers and pesticide handlers seeking respiratory protection for use of pesticides in agricultural production. The “annual fit test delay” provision of the June 2020 memorandum, which is applicable to all NIOSH-approved respirators that require fit testing, was time-limited to 2020. Based on the continued challenges of the COVID-19 public health emergency, EPA is amending the “annual fit test delay” option to extend that option until September 30, 2021.

Annual fit testing is required pursuant to 40 CFR § 170.507(b)(10)(i). Section III.B. of the June 2020 memorandum presents potential options for the completion of Agricultural Worker Protection Standard (WPS) respirator fit testing requirements. Neither the fit testing section in the June 2020 memorandum nor this amendment provides a waiver of the annual fit testing requirement. As stated in the June 2020 memorandum, handler employers and handlers are expected to make every effort to comply with all applicable pesticide product label and WPS requirements, and to exhaust all available compliance options, including those identified in Section II of the June 2020 memorandum, before considering the options presented in Section III.B. “Completion of Respirator Fit Testing.” EPA will, on a case-by-case basis, exercise its enforcement discretion provided that handlers and handler employers demonstrate that they have exhausted all available compliance options and are implementing the recommended terms and conditions, as outlined in the June 2020 memorandum.

The “annual fit test delay” option is presented in Section III.B.1 of the June 2020 memorandum as time-limited to 2020. Due to the evolving situation involving COVID-19, the time-limited condition for the “annual fit test delay” in Section III.B.1 is revised to extend the option and is now set to expire September 30, 2021.

Specifically, the condition, “Handlers have received an annual fit test during the prior calendar year (2019) on the specific make and model of respirator they will continue to use,” is revised to “Handlers have received an annual fit test during calendar year 2019 or 2020 on the specific make and model of respirator they will continue to use.”

The remainder of the June 2020 memorandum remains in effect. Section III.B.1 is amended as follows:

**1. Annual Fit Test Delay**

*Option Applies To: All NIOSH-approved Respirators that Require Fit Testing*

*Option Expires September 30, 2021*

Annual fit testing is required pursuant to 40 CFR § 170.507(b)(10)(i). The COVID-19 public health emergency has created challenges for both handler employers responsible for conducting and handlers accessing the WPS-required annual respirator fit testing.

If there is a delay of an annual fit test caused by the present COVID-19 public health emergency, the EPA believes incremental risk potentially associated with such a delay can be avoided or minimized provided that handler employers and handlers comply with all other applicable requirements of the WPS and pesticide product labels and adhere to the conditions below:

- Handlers have received an annual fit test during calendar year 2019 or 2020 on the specific make and model of respirator they will continue to use;
- Handlers have not had a physiological change that affects the seal between the facepiece and the user’s face (e.g., ±20 lb. gain/loss, facial surgery, scarring or dental procedures since the last fit test);
- The handler employer can demonstrate that the handler has received respirator training in the previous 12 months and can ensure that the handler can demonstrate knowledge of the points covered in the training that conforms to the provisions of 29 CFR § 1910.134(k)(1)(i) through (vi) (as required by reference in the WPS per 40 CFR § 170.507(b)(10)(ii)); and
- The handler employer has informed the handler of the time-limited change to the annual fit test requirement to preserve and prioritize the supply of respirators because of the COVID-19 public health emergency.

In order to provide fair and sufficient notice to the public, the EPA is posting a notification at <https://www.epa.gov/enforcement/enforcement-policyguidance-publications> and [www.epa.gov/pesticides](http://www.epa.gov/pesticides) regarding amendment of this temporary policy.