



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

August 10, 2021

MEMORANDUM

SUBJECT: Termination of the June 1, 2020 Statement/May 6, 2021 Amendment 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, Ph.D., Assistant Administrator **MICHAL FREEDHOFF**
Office of Chemical Safety and Pollution Prevention

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Lawrence E. Starfield, Acting Assistant Administrator **LAWRENCE STARFIELD**
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TO: Pesticide Lead Regulatory Agencies
Agricultural Handler Employers under the Agricultural Worker Protection Standard
Pesticide Handlers of Pesticide Products Bearing Respiratory Protection Requirements

In response to shortages of personal protective equipment and related services caused by the COVID-19 public health emergency, EPA issued temporary guidance regarding respirator protection to agricultural employers and handlers using agricultural pesticide products. Specifically, on June 1, 2020, EPA issued the memorandum titled, “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,”¹ and on May 6, 2021, an amendment² extending the “annual fit test” option. These memoranda aligned with several Occupational Safety and Health Administration (OSHA) memoranda issued early in 2020.³ Based on new information indicating that access to NIOSH-approved respirators, fit-testing supplies, and provisions of related services have improved as well as guidance issued by other federal agencies as described below, EPA, through this memorandum, is terminating the June 1, 2020 temporary guidance and the associated May 6, 2021 amendment in their entirety, effective Thursday, August 19, 2021. Upon termination, EPA will revert to practices employed prior to the public health emergency.

On April 9, 2021, the Centers for Disease Control and Prevention (CDC) updated its “Strategies for Optimizing the Supply of N95 Respirators,”⁴ which recommends that healthcare facilities stop

¹ June 1, 2020 EPA Respiratory Statement, <https://www.epa.gov/enforcement/statement-regarding-respiratory-protection-shortages-and-reduced-availability-respirator>.

² May 6, 2021 EPA Respiratory Statement Amendment, <https://www.epa.gov/enforcement/amended-statement-regarding-respiratory-protection-shortages-and-reduced-availability>.

³ See Appendix A of the June 1, 2020 EPA Respiratory Statement for a full description of the OSHA memoranda.

⁴ CDC Strategies for Optimizing the Supply of N95 Respirators, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy>.

purchasing and using non-NIOSH-approved respirators, not store previously decontaminated respirators, and promptly resume conventional practices instead of using crisis capacity strategies. On June 30, 2021, the Food and Drug Administration (FDA) revoked its emergency use authorizations⁵ and issued revised guidance advising healthcare personnel and facilities to transition from using crisis capacity strategies as a means of conserving disposable filtering facepiece respirators and from using non-NIOSH-approved disposable respirators (such as KN95s).⁶ Most recently, on July 7, 2021, OSHA issued a memorandum titled “Updated Interim Enforcement Response Plan for Coronavirus Disease 2019 (COVID-19)” that included policy changes regarding enforcement discretion for periodic respiratory protection equipment shortages and associated constraints during the COVID-19 pandemic.⁷ Consistent with these actions, EPA is terminating its temporary guidance regarding respiratory protection for agricultural handlers and handler employers.

In order to provide fair and sufficient notice to the public, the EPA is posting a notification at <https://www.epa.gov/enforcement/covid-19-enforcement-and-compliance-resources> and www.epa.gov/pesticides.

⁵ FDA In Brief: FDA Revokes Emergency Use Authorizations for Certain Respirators and Decontamination Systems as Access to N95s Increases Nationwide, <https://www.fda.gov/news-events/press-announcements/fda-brief-fda-revokes-emergency-use-authorizations-certain-respirators-and-decontamination-systems>.

⁶ Update: FDA No Longer Authorizes Use of Non-NIOSH-Approved or Decontaminated Disposable Respirators - Letter to Health Care Personnel and Facilities, <https://www.fda.gov/medical-devices/letters-health-care-providers/update-fda-no-longer-authorizes-use-non-niosh-approved-or-decontaminated-disposable-respirators>.

⁷ July 7, 2021 OSHA Updated Interim COVID-19 Enforcement Plan, <https://www.osha.gov/laws-regs/standardinterpretations/2021-07-07>.