

INTERNATIONAL UNION OF OPERATING ENGINEERS

Craft-Maintenance Division State of California Unit 12
Locals 3, 39 & 501, AFL-CIO

CDCR N95 Policy Update – January 26, 2022

IUOE Members,

This update is for members who work for the Department of Corrections (CDCR), or Prison Industries Authority (PIA), or California Correctional Health Care Services (CCHCS).

As you may be aware, on January 7, 2022, these Departments implemented a policy: All employees assigned to perform work within a CDCR institution or facility were mandated to wear N95 respirator masks. The basis for these Departments implementing the policy mandating the usage of the N95 respirator was due to the surge of COVID-19 cases within CDCR facilities across the State of California. These Departments believed this mandatory implementation was in accordance with the Cal OSHA Standard 3205.2 (Major COVID-19 Outbreaks). However, upon the Union's review of the Cal OSHA Emergency Temporary Standard 3205.2 and the Cal OSHA Standard 5144 (Respiratory Protection), the Union determined these Departments acted out of Cal OSHA compliance by not requiring affected employees to participate in, and successfully complete, the required respirator fit test prior to mandating the employee dawn the N95 respirator.

Per the regulations, a complete fit test consists of ensuring the employee can properly dawn the respirator, employee given the correct size of respirator, the employee can perform a test of the respirator to ensure it seals properly, the employee can successfully complete a pulmonary function test which would evaluate an employee's lung capacity prior to dawning the respirator.

Upon notification of the mandated N95 policy, the Union immediately requested a meeting. On January 12, 2022, the Union met with CDCR to convey the Union's concerns of not performing a proper and complete fit test, prior to employees dawning the respirator as per the Cal OSHA Standard. The Union further expressed its concern for employees who have existing respiratory conditions, which the dawning of the N95 respirator can aggravate. A proper fit test would identify these issues and protect an employee from injury/illness. Unfortunately, the January 12th meeting did not yield an outcome which the Union could agree upon.

On January 13, 2022, the Union filed a Health & Safety grievance regarding the non-compliance of the Departments. The Health and Safety grievance reiterated the Union's original concerns of the lack of a proper fit test program prior to employees dawning the N95 respirator.

On January 20, 2022, the Union met with CDCR, PIA, and CCHCS to resolve the Health & Safety grievance. During this meeting, the Union expressed its concern that the Departments were operating in a dangerous capacity, as they attempted to address health and safety concerns presented by COVID-19, while simultaneously overlooking the health and safety violation of not performing the required fit test associated with the N95 respirator.

The following day, January 21, 2022 the Departments agreed to rescind the policy which mandated all staff to dawn the N95 respirator, except for employees assigned to work in isolation and/or quarantine areas. Employees who are assigned to work within isolation and/or quarantine areas will be required to dawn the N95 respirator, however, they will be required to successfully complete a fit test prior to dawning the N95 respirator. All other employees will be required to dawn the KN95 mask. The KN95 mask has similar protection values (prevents 95% of particulates just as the N95), however, the KN95 mask does not require a fit test, may not achieve the same seal as the N95 respirator, nor considered to be a tight-fitting respirator. Employees who wish to wear the N95 respirator may inquire with their employer for availability. If an employee wears the N95 respirator voluntarily then there is no need for a fit test as Cal OSHA only requires the fit test if the employer is mandating the dawning of a tight-fitting respirator.

Please immediately contact your Union representative if your CDCR institution or facility is not complying with the Health and Safety grievance remedy and/or updated policy dated January 24, 2022.

In Solidarity,

Brandy Johnson

District Representative, Local 39
State of CA Unit 12 & Unit 13 Coordinator

Travis Tweedy

Director, Local 3

Deric Barnes

Director, Local 501