

**DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

CALIFORNIA CODE OF REGULATIONS

TITLE 8, DIVISION 1, CHAPTER 3.2

Subchapter 2. Regulations of the Division of Occupational Safety and Health

Add new Article 1.7 to read:

Article 1.7 Definitions

Add new Section 340.70 to read:

§340.70 Definition of Normal Consumption

(a) For purposes of this section, all references to “employees” means employees who provide direct patient care or who provide services that directly support care to patients in a general acute care hospital, as that term is defined in subdivision (a) of section 1250 of the Health and Safety Code. “General acute care hospital” is referred to in this section as “facility.”

(b) As used in Labor Code section 6403.3, normal consumption means the average amount of the equipment specified below, for each category, type and size of the equipment, used by employees over the previous two-year period:

1. N95 filtering facepiece respirators.
2. Powered air-purifying respirators with high efficiency particulate air filters.
3. Elastomeric air-purifying respirators and appropriate particulate filters or cartridges.
4. Surgical masks.
5. Isolation gowns.
6. Eye protection.
7. Shoe coverings.

(c) Normal consumption shall be calculated as follows:

(1) For each year beginning April 1, the quantity of each category, type and size of the specified equipment consumed by employees in the facility during the preceding two calendar years, from January through December, shall be added up and then divided by 8.

(2) In calculating the average consumption over the two-year period, the quantity used to represent consumption during the second year shall be capped at 200% of the first year’s consumption. The capped quantity shall be used as that year’s consumption level for subsequent years’ normal consumption calculations.

Note: For example, three months of normal consumption for the year beginning April 1, 2021, and ending on March 31, 2022, would be based on the total quantity of each category, type and size of the specified equipment consumed during the period January 1, 2019 through

December 31, 2020, divided by 8. Assume that consumption of a particular category and type of equipment, in a size medium, is the following:

- 2019 is 1000 pieces
- 2020 is 3000 pieces
- 2021 is 1600 pieces

The quantity used to calculate the normal consumption for 2020 will be capped at 2000 pieces (1000 multiplied by 2). The quantity calculated for three months normal consumption for the year starting April 1, 2021 will thus be 3000 (1000 plus 2000)/8 = 375 pieces. The calculation for three months of normal consumption for the year starting April 1, 2022 will be (2000 plus 1600)/8 or 450 pieces.

(d) The employer may determine consumption for each category, type and size of equipment by any of the following methods:

1. The total quantity received in the facility from all sources for use by employees;
2. The total quantity ordered by the facility from all sources for use by employees;
3. The average monthly inventory;
4. The quantity distributed to employees through all distribution methods, including separately chargeable and non-separately chargeable items.

Note: The employer may use different methods of determining consumption, from among the four methods listed above, for each category, type and size of equipment.

Note: Authority cited: Sections 60.5 and 6308, Labor Code. Reference: Section 6403.3, Labor Code.