

**North Carolina Department of Labor
Occupational Safety and Health Division**

Raleigh, NC

Field Information System

Standards Notice 68

Subject: 29 CFR 1910.134(d) (1) (ii); Use of Non-NIOSH approved respirators for voluntary use.

A. Standard.

1. 29 CFR 1910.134 (c)(2) – Where respirator use is not required.
2. 29 CFR 1910.134 (d)(1)(ii) – The employer shall select a NIOSH certified respirator. The respirator shall be used in compliance with the conditions of its certification.

B. Discussion.

Prior to the 1998 revision of 29 CFR 1910.134, OSHNC policy did not permit the use of any non-NIOSH approved respirators regardless of the condition of use. However, this policy is no longer in effect and is in conflict with OSHNC's adoption of OSHA Instruction CPL 2-0.120 ("Inspection Procedures for the Respiratory Protection Standard," September 25, 1998).

Specifically, Section D.3 regarding voluntary use states, in part:

“Normally, respirators that are voluntarily used by employees will be filtering facepieces (dust masks). NIOSH-approved respirators are strongly recommended, but they are not required for voluntary use...”

C. Interpretation.

While the compliance directive specifically discusses the use of “dust masks,” and further discusses specifics in the standard related to the voluntary use of these masks, it is OSHNC’s opinion that under voluntary circumstances, any type of non-NIOSH approved respirator may be used.

Non-NIOSH approved respirators, although not recommended by OSHNC, are acceptable for voluntary use when the criteria set forth in 29 CFR 1910.134(c)(2) have been satisfied. CSHOs will continue to cite 29 CFR 1910.134(d)(1)(ii) for unapproved respirators when a known or potential overexposure to an airborne contaminant is documented or when the employer requires employees to use respirators. Under these conditions all elements of an effective respiratory protection program must be satisfied

SN 68 cont'd.

D. **Effective Date.**

This SN is effective on the date of signature. It will remain in effect until revised or canceled by the Director.

Signed on Original

J. Edgar Geddie
Health Standards Officer

Signed on Original

Allen McNeely
Director

6/17/04

Date of Signature