



ILLINOIS DEPARTMENT OF LABOR

Pat Quinn
Governor

Joseph Costigan
Director

March 17, 2014

Mr. Mick McAvoy, Special Programs Manager
Illinois Law Enforcement Alarm System (ILEAS)
1905 East Main Street
Urbana, Illinois 61802
mmcavoy@ileas.org

Re: Illinois Department of Labor Enforcement and Guidance of Respiratory Protection Standards

Dear Mr. McAvoy:

This letter is in response to the existing interpretation of the OSHA Respiratory Protection Standard [29 CFR 1910.134] as it applies to various law enforcement personnel in the state of Illinois. This letter should replace all previously-issued letters of interpretation submitted to ILEAS, including but not limited to those dated July 14, 2004, August 8, 2003, March 10, 2005 and January 22, 2007.

The two separate and distinct concerns ILEAS originally presented covered the Avon respirators for escape during a bioterrorism incident and the proper use of N-95 respirators during an influenza pandemic. The following is the same interpretation of these issues as the U.S. Department of Labor – Occupational Safety and Health Administration (OSHA).

There are two basic categories of respiratory protection, air-purifying and supplied air. Each type of respirator is effective at protecting employees from different hazards dependent upon the environments. The actual work activity of the law enforcement professional will dictate the methods of control needed including all of the personal protective equipment necessary to protect them which will be determined by the hazard assessment. [*OSHA/NIOSH Interim Guidance – Chemical Biological Radiological Nuclear (CBRN): Personal Protective Equipment Selection Matrix for Emergency Responders, April 1, 2005*].

The Avon respirators were approved and certified by National Institute for Occupational Safety and Health (NIOSH) for CBRN Capacity 1 use. They are considered an air-purifying negative pressure respirator, thus limiting their long-term effectiveness in an unknown atmosphere. However, NIOSH does allow for them to be used for escape-only from an unknown atmosphere. NIOSH published a Statement of Standard for CBRN Escape Respirators that lists the cautions

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and limitations of these respirators in September 30, 2003 and is attached for reference. [*OSHA Safety and Health Information Bulletin CBRN Escape Respirators, SHIB 08-29-03*]

Please note that supplied air respirators are required for unknown or Immediately Dangerous to Life and Health (IDLH) atmospheres. Workers expected to remain in the area or to respond for the intention of stopping or controlling the release of the hazardous substance at the point of release would be considered emergency responders and are covered by the Hazardous Waste Operations Standard's provisions on respiratory fit-testing and medical certifications [*29 CFR 1910.120(q)*].

The second part of the request was regarding the use of N-95 respirators for pandemic flu preparedness. Specifically, the designation of N-95 as a respirator, the medical evaluation, fit-testing and training requirements were of concern. Our interpretation is the same as federal OSHA with regards to the N-95 respirators.

NIOSH certified N-95 as an air-purifying respirator under 42 CFR Part 84, Subpart K. It is not resistant to oil and was 95% efficient at 0.3 um diameter particles. OSHA recently published the "*Guidance of Preparing Workplaces for an Influenza Pandemic*" which covers the use of these respirators and other methods of control in detail [*OSHA 3327-02N 2007*]. All of the provisions of the Respiratory Standard apply to the use of N-95s as any other negative pressure air-purifying respirator including the medical surveillance, annual fit-testing, written program, training, maintenance and care and recordkeeping [*29 CFR 1910.134(e), (f), (c), (k), (h) and (m) respectively*].

The voluntary use of respirators is clearly stated in the Respiratory Protection standard. OSHA states that voluntary use is only permitted in an environment that presents no health hazard. The influenza pandemic is a known health hazard, thus eliminating any voluntary use in the workplace. [*29 CFR 1910.134(a)(2)*].

The ILEAS matrix, "*State of Illinois Law Enforcement Respirator Regulations*", does not accurately reflect the aforementioned interpretation of the Respiratory Protection Standard and needs to be updated. Our staff will gladly assist in the development of a new matrix that better represents the Respiratory Protection Standard as it applies to ILEAS' constituency. I am recommending that the interpretation letter and matrix on the ILEAS website also need to be replaced and updated.

Individual law enforcement agencies can request a variance from the Respiratory Protection standard by providing detailed alternative measures designed to protect employees that are at least as effective as the Standard. The Illinois Health and Safety Act [*820 ILCS 225*] has provisions set forth in Section 4.2 for requesting variances from any of the health and safety standards adopted by the Department.

OSHA published in the Federal Register the final rule that updated the Respiratory Protection Standard in August 2006. [*Assigned Protection Factors: Final Rule – 71:50121- 50192, 8-24-2006*].

For further information or if there are any questions please contact our Springfield Office (217) 782-9386.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl J. Neff".

Cheryl J. Neff, Division Manager
Safety Inspection & Education Division