

INTERPRETATION LETTER 01	Date: January 15, 2019
Documentation Requirements for Fire Services Fitness for Duty and Respirator Clearance	Signature: William McKinney Director, Department of Labor Standards
Relevant Standards	29 CFR 1910.134(e) and 1910.156(b)(2)

Through their initial training and by performing their jobs, active firefighters (professional, volunteer and call) have demonstrated their fitness for duty and ability to wear a respirator. Many firefighters have received documentary proof of fitness for duty and ability to wear a respirator, as detailed below. Not all active firefighters, however, will have this documentation, especially those with longer tenures on the job. The Department of Labor Standards (DLS) will therefore presume that all firefighters with a hire date<sup>1</sup> before February 1<sup>st</sup>, 2019 are fit for duty and physically able to wear a respirator and will not require any additional documentation as proof of fitness for duty under 29 CFR 1910.156(b)(2) or proof of clearance to wear a respirator under 29 CFR 1910.134(e) for firefighters hired before February 1, 2019.<sup>2</sup>

Annual fit tests, as required under 29 CFR 1910.134(f)(2), are required of all firefighters regardless of hire date.

Additionally, any firefighter, regardless of hire date, who experiences heart disease, epilepsy, or emphysema after February 1<sup>st</sup>, 2019 shall not be permitted to participate in firefighting activities unless a physician's certificate of the employee's fitness to participate in such activities is provided, per 29 CFR 1910.156(b)(2).

Finally, any firefighter, regardless of hire date, may be required by the employer to complete an additional proof of clearance to wear a respirator, per 29 CFR 1910.134(e)(7).

For firefighters hired on or after February 1<sup>st</sup>, 2019, DLS will require employers to maintain the following documentation in their personnel files:

- Proof of fitness for duty, which may be one of the following (in order of preference):
  - Statement that employee has successfully passed a NFPA 1582 physical.
  - HRD Civil Service new hire form confirming fitness for duty.
  - Statement from healthcare provider (NP, PA, DO, MD, RN) stating employee is fit for duty (may be employee's primary care physician).
  - Firefighter 1 or 2 certificate from any training source.
  - CDL medical exam or other physical exam the department has recognized as proving fitness for duty.
  - Signed statement by the Employer (Chief or other town official) that the employee is fit for duty.

<sup>1</sup> For firefighters with an original hire date before February 1<sup>st</sup>, 2019 who transfer departments after February 1<sup>st</sup>, 2019 without a break in service DLS will utilize the original hire date for purposes of this Interpretation Letter.

<sup>2</sup> This Interpretation Letter is not related to and does not apply to medical exams required of HAZMAT team members under 29 CFR 1910.120(f).

- A statement from a healthcare provider (NP, PA, DO, MD, RN) that the employee has been deemed fit to wear a respirator. Information on the method for this determination can be found at 29 CFR 1910.134(e).

DLS encourages but does not require departments to utilize the NFPA 1582 standard and to perform more frequent medical evaluations than those required under 29 CFR 1910.134(e) and 1910.156(b)(2).

Public sector occupational safety and health requirements are set by statute, standards and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes DLS's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to safety and health regulations. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult DLS's website at [www.mass.gov/dols/wshp](http://www.mass.gov/dols/wshp).