



# National Federation of Federal Employees

Affiliated with the International Association of Machinists and Aerospace Workers

## Forest Service Council



We work for America every day

## Rebuilding the Wildland Firefighter Workforce

The importance of the federal wildland firefighting workforce cannot be overstated. Forest Service (FS) and Department of Interior (DOI) incident teams play a key role in homeland security, responding not just to wildfires but to a wide variety of emergency incidents:

- In 2005, 12,000 trained responders assisted with hurricane recovery efforts
- In 2003, incident teams worked with USDA APHIS on Newcastle Disease outbreaks and with NASA on Columbia Shuttle recovery efforts
- In 2001, five FS incident teams were in place and operational in New York City and at the Pentagon the morning after the 9/11 attacks

Whereas FEMA and other agencies are just beginning to learn how to use the Incident Command System (ICS) to deploy functional teams—one of the major contributing factors to FEMA’s failures post-Katrina was a lack of ICS expertise—the FS led the way in inventing ICS and has been using it for decades. An effective response requires more than ICS organizational charts on paper—it requires a trained and experienced workforce. Most of this expertise currently resides in the FS and its sister DOI agencies.

However, the primary responsibility of the Forest Service wildland firefighting workforce is fighting and managing wildfires. Wildland firefighting responsibilities appropriately reside with the nation’s natural resource agencies. Strategic and tactical decisions must be made with an appreciation of natural resource implications. The skills Forest Service firefighters must bring to their jobs are different from those of typical firefighting organizations. In addition to preserving life and property, Forest Service wildland firefighters are responsible for fighting and managing wildfires to accomplish land management objectives. The dual responsibilities of being wise stewards of the land and responding to wildland fires and other disasters make this occupation truly unique. However, wildland firefighting agencies must do a better job of acknowledging and supporting this unique profession. This brief addresses a number of opportunities for improvement:

- To properly classify firefighters and fire program managers, we recommend enactment of legislation mandating that the agency and OPM develop and implement specific classification series for these unique professions
- To improve firefighter retention, we recommend enactment of legislation to implement an “ordered standby” pay plan
- To improve firefighters’ safety while protecting their Constitutional rights, we recommend enactment of legislation to authorize the agency to designate statements made during safety investigations as confidential and not subject to disclosure and use for any purpose other than to improve safety
- To address the abuse of temporary hiring authorities, we request enactment of legislation to prohibit the practice and allow employees exploited by it to “buy back” the time they served as temporary employees

We would be happy to work with you on the technical aspects of these proposals or provide you with any additional information you may require.

## **Classification Reform**

For years, agency firefighters have been classified in inappropriate Office of Personnel Management (OPM) classification series, such as the GS-0462 Forestry Technician series. This classification does not acknowledge the reality of their jobs and limits their career advancement opportunities. Forest Service firefighters and fire managers are professionals in a highly specialized profession. They deserve to be recognized as such. Their career advancement needs to be linked to the unique combination of knowledge, skills, and abilities required to effectively carry out the duties of this profession.

This issue came to a head with a recent plan to reclassify fire program managers into the GS-0401 General Natural Resources Management and Biological Science series. This classification series imposes new academic requirements which in many cases are unrelated to the duties of the targeted fire management positions. Based on the most recent numbers we have seen, this may remove as many as 31 percent of the agency's 473 field generals in our war against wildfire from their jobs in 2010. Further, the reclassification imposes a glass ceiling for some of our most capable leaders coming up through the ranks.

We recommend that legislation be passed to require the agency and OPM to develop and implement classification series specifically for wildland firefighters and wildland fire program managers. During the transition, we recommend that the GS-0301 Miscellaneous Administration and Program series be used as a bridge for fire program management positions whose critical duties are operational in nature. This will ensure consistency in classification during the transition and avoid the pitfall of having employees performing identical jobs classified in different series with different promotion potentials, a practice inconsistent with OPM regulations. It will also ensure that employees with vital field experience can in the interim compete for critical fire management positions for which they would be unqualified under the ill-suited GS-0401 series.

## **Reforming Pay to Improve Retention**

Under current pay policies, the agency has difficulty retaining highly trained and qualified firefighters. Although retention problems in Region 5 (California) are the best documented, there are indications of problems beyond California as well. In addition, since Region 5 provides a substantial portion of the agency's firefighting resources service-wide, these figures in and of themselves have national significance. Because of superior pay and personnel policies, many experienced Forest Service firefighters have left federal service to work for the California Department of Forestry and Fire Protection (CAL FIRE) and municipal fire departments.

In our June 18, 2008 testimony before the Senate Committee on Energy and Natural Resources,<sup>1</sup> we pointed out how short-staffing in certain critical positions in Region 5 adversely affected preparedness levels. For example, a 39% shortfall in Assistant Fire Engine Operators last fire season resulted in the downgrading of many 7-day Fire Engines to 5-day status.

Staffing levels tell some, but not all, of the story. Staffing levels can be maintained even with excessive attrition by hiring large numbers of entry-level employees. In such a case, there is substantial pressure to rush these employees into higher-graded positions to meet the staffing needs of the module. This results in a large number of minimally qualified employees in critical positions. Safety and effectiveness are adversely affected.

*Congressional Briefing, May 11, 2009. For more information, contact Mark Davis, Chair, NFFE Forest Service Council Legislative Committee, at 608-231-9474 or [mwdavis01@fs.fed.us](mailto:mwdavis01@fs.fed.us).*

To improve firefighter retention, we recommend legislation to implement an “ordered standby” pay plan to bring the agency’s pay policy more in line with those of its main competitors for labor, such as CAL FIRE and municipal fire departments. CAL FIRE firefighters are compensated for the entire time they are on an incident, including rest time. In contrast, agency firefighters are paid only for the time they are on the fire lines; their rest time is uncompensated. Under our ordered standby proposal, all other elements of the current federal pay system would remain in place, but in addition employees confined to a fire camp or incident base would be paid base rate for their rest time. Advantages include:

- Increased retention and recruitment, thus improved staffing levels and workforce quality
- Better administrative control on incidents – closed camps improve safety and effectiveness
- Reduced incentive to work long shifts, thus decreasing fatigue and improving safety and effectiveness
- Equitable distribution of increased pay among all grades of employees

This reform is not free; it has a significant line-item cost. This cost cannot be paid at the expense of prevention or natural resource budgets. These programs have already been cut to the bone by flat budgets and increasing suppression costs. We recommend that ordered standby be fully funded by additional appropriations.

We estimate that ordered standby would increase Forest Service personnel costs by approximately \$52 million annually, based on the 10-year average suppression cost of just over \$1 billion.<sup>2</sup> To put this cost into perspective, non-personnel suppression costs are roughly 14 times this amount, or \$719 million annually. However, a recent report from the Western Forestry Leadership Coalition<sup>3</sup> documents that suppression costs are just the tip of the iceberg. Devastation remains after the fires are out. True costs average ten times greater than suppression costs, or approximately \$10 billion annually. We maintain that strengthening the workforce most capable of reducing these costs is a wise investment in human capital. Reduced in-house capacity would lead inexorably to an increasing reliance on costly and often less capable contract crews. The mean cost of a contract Type 2 crew is 45% more than a FS Type 2 crew.<sup>4</sup> Forest Service crews would remain less expensive under ordered standby. More significantly, serious problems with oversight, training, quality, and safety of contract crews have been well documented.<sup>5</sup> Unqualified crews add greatly to suppression and true costs and put others on the fire lines in danger. Forest Service wildland firefighters are the best in the world at mounting rapid and effective responses to wildfires and other emergency incidents. Ordered standby is a cost-effective way to begin revitalizing this important national asset.

## **Support Firefighter Rights and Safety**

The agency performs after-action safety investigations in which it asks employees to freely and frankly disclose information and opinions to develop lessons learned and improve safety. However, the line between “What would you do differently?” and “What did you do that was wrong?” is a very fine one. Employees are understandably reluctant to participate freely if their statements may be used against them or their co-workers in legal proceedings, especially in light of recent prosecutions for criminal negligence based on safety investigation interviews. Since employees retain their 5<sup>th</sup> amendment rights, the choice is not whether witness statements from safety interviews may be used to criminally prosecute firefighters for

*Congressional Briefing, May 11, 2009. For more information, contact Mark Davis, Chair, NFFE Forest Service Council Legislative Committee, at 608-231-9474 or [mwdavis01@fs.fed.us](mailto:mwdavis01@fs.fed.us).*

decisions made in the heat of battle that may, in hindsight, have contributed to tragic outcomes. The real choice is whether or not effective safety interviews will happen at all.

We recommend enactment of legislation that would authorize the agency to designate statements made during safety investigations as confidential and not subject to disclosure and use for any purpose other than to improve safety, if such designation would materially assist the safety investigation. A collateral investigation, under which Constitutional protections are operative, would also be performed to develop a record of the incident that would be accessible to the public. This approach meets the competing interests of protecting employees who step up to improve safety while maintaining the public's right to know. Similar statutes are already used to enhance the safety of aircraft operations (10 USC § 2254) and provision of health care services (PL 109-41). Wildland firefighters work 16-hour days performing physically and mentally demanding tasks under extreme, dangerous, and chaotic conditions. The safety of these brave men and women deserves the same kind of attention.

The urgency of this reform is such that we have recommended to Forest Service employees that they refrain from participating in safety investigations following serious incidents until it is put in place.<sup>6</sup> This may hamper efforts to improve safety in the short run, which we deeply regret. However, because of the previous use of safety witness statements in criminal investigations and prosecutions of their co-workers, employees' trust levels are so low that effective safety investigations of major incidents are already impossible. Even after reforms are implemented, it will take years to rebuild the trust that has been lost. We have been working intensely with the agency to put the necessary administrative policies in place to ensure that a collateral investigation is performed to meet the public's right to know. Now, we ask you to provide the second leg of the stool by passing legislation to prevent the disclosure of safety witness statements. Only then will we be able to begin work on the third leg of the stool: restoring the trust and confidence of employees in the safety investigation process.

## **Stop Temporary Hiring Abuse**

The Forest Service employs a large number of temporary employees to perform work that is seasonal in nature. This includes firefighting but is not limited to it; recreation, engineering, timber pre-sales, silviculture and reforestation, and a large variety of other seasonal natural resources work also falls into this category. Temporary employees are ineligible for retirement, life insurance, and health insurance benefits.

In 1994, OPM promulgated regulations “to ensure that temporary appointments, under which employees receive no benefits, are used to meet truly short-term needs.”<sup>7</sup> In a press release, OPM noted that the land management agencies were principal abusers of the temporary hiring authority, using it for work of a seasonal nature. The release went on to state that the new rules would “end the abuse” and result in the government “treating employees fairly” and to “letting our temporary employees know that we recognize their contributions and respect them as people.”<sup>8</sup> We could not agree more with these goals.

Unfortunately, they have not been realized: a gaping loophole has allowed the worst offenders to continue business as usual. The loophole is at CFR 213.104(b)(3)(i), which states, “The service limits and restrictions on refilling positions set out in this section **do not apply** when positions involve intermittent or seasonal work, and employment in the same or a successor position under one or more appointing authorities totals less than 6 months (1,040 hours), excluding overtime, in a service year (emphasis added).”

*Congressional Briefing, May 11, 2009. For more information, contact Mark Davis, Chair, NFFE Forest Service Council Legislative Committee, at 608-231-9474 or mwdavis01@fs.fed.us.*

For example, at one Region 1 Ranger District there are three employees who have worked seasonally for 25-30 years as temporary hires and a fourth such who recently called it quits and walked away. Two of these four are firefighters: one is deployed on Type 1 and Type 2 teams for much of the fire season and the other left to work for a contract firefighting firm. The other two perform trails work. Their stories are not atypical. Both the firefighting and the trails work are regular and recurring, each and every season. However, by hiring these workers as temporaries instead of permanent seasonal workers, their unit saves the cost of paying for their benefits. Effects on morale and effectiveness extend beyond those directly affected to their brothers and sisters on the fire lines and on the Forests who bear witness to the unethical exploitation to which they are subjected.

We recommend legislation to finally put an end to this abuse of the temporary hiring authority. While we can never fully repay those employees and their families for this history of abuse, we recommend that we do make them whole at least with respect to the pension benefits they were wrongfully denied by providing them with the opportunity to “buy back” all of their service time as temporary employees.

## Endnotes

---

<sup>1</sup> See TESTIMONY BY RON THATCHER, PRESIDENT, NFFE FOREST SERVICE COUNCIL, BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES REGARDING PREPAREDNESS OF FEDERAL LAND MANAGEMENT AGENCIES FOR THE 2008 WILDFIRE SEASON (June 18, 2008). Posted at [http://energy.senate.gov/public/\\_files/ThatcherTestimony.doc](http://energy.senate.gov/public/_files/ThatcherTestimony.doc)

<sup>2</sup> Briefly, pay records were analyzed to determine the cost difference between current compensation and ordered standby plans. The analysis was performed for operational personnel, defined as those who received hazard pay. The mean increase in pay per incident was relatively consistent across grade levels, ranging from 25 to 37 percent from GS-3 to GS-13 employees. Total cost was obtained by: 1) estimating the percentage increase in pay for fire personnel paid under the ordered standby system compared to the current system, 2) multiplying the estimated percentage increase in pay times the percentage of personnel costs to total suppression expenditures (5-year average of 29.3%) to arrive at a percentage increase in total suppression expenditures, and 3) multiplying average suppression expenditures (10-year average of \$1.02 billion) times the percentage increase in suppression costs.

<sup>3</sup> See Western Forestry Leadership Coalition, THE TRUE COST OF WILDFIRE IN THE WESTERN UNITED STATES (April 13, 2009). Posted at [www.wflcenter.org/news\\_pdf/324\\_pdf.pdf](http://www.wflcenter.org/news_pdf/324_pdf.pdf)

<sup>4</sup> See Geoffrey H. Donovan, A COMPARISON OF THE COSTS OF FOREST SERVICE AND CONTRACT FIRE CREWS IN THE PACIFIC NORTHWEST, *Western Journal of Applied Forestry* 20(4), p. 233-239 (October 2005). Posted at [www.fs.fed.us/pnw/pubs/journals/pnw\\_2005\\_donovan002.pdf](http://www.fs.fed.us/pnw/pubs/journals/pnw_2005_donovan002.pdf)

<sup>5</sup> See U.S. Department of Agriculture Office of Inspector General, Western Region, AUDIT REPORT: FOREST SERVICE FIREFIGHTING CONTRACT CREWS, Report No. 08601-42-SF (March 2006). Posted at [www.usda.gov/oig/webdocs/08601-42-SF.pdf](http://www.usda.gov/oig/webdocs/08601-42-SF.pdf)

<sup>6</sup> See letter from Ron Thatcher, President, NFFE Forest Service Council, to Abigail Kimbell, Chief, USDA Forest Service (December 5, 2008). Posted at [www.nffe-fsc.org/Documents/IFPM/FSC\\_081205\\_OpenLtrToChief.pdf](http://www.nffe-fsc.org/Documents/IFPM/FSC_081205_OpenLtrToChief.pdf)

<sup>7</sup> See 59 Federal Register 46897. Posted at <http://www.gpo.gov/fdsys/pkg/FR-1994-09-13/html/94-22447.htm>

<sup>8</sup> See OPM Press Release, OPM RESTRICTS USE OF TEMPORARY HIRING AUTHORITY (September 13, 1994). Posted at [www.opm.gov/pressrel/1994/PR940913.htm](http://www.opm.gov/pressrel/1994/PR940913.htm)

*Congressional Briefing, May 11, 2009. For more information, contact Mark Davis, Chair, NFFE Forest Service Council Legislative Committee, at 608-231-9474 or [mwdavis01@fs.fed.us](mailto:mwdavis01@fs.fed.us).*