



NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Affiliated with the International Association of Machinists & Aerospace Workers, AFL-CIO

August 27, 2024

Agriculture Secretary Tom Vilsack
Undersecretary for Natural Resources Homer Wilkes
Forest Service Chief Randy Moore
U.S. Department of Agriculture and U.S. Forest Service
1400 Independence Ave., S.W.
Washington, DC 20250

Re: Wildland Firefighter Occupational Series

Dear Secretary Vilsack, Undersecretary Wilkes and Chief Moore,

USDA and USFS will soon implement the Wildland Firefighter Occupational Series as directed by Congress and the White House in the Bipartisan Infrastructure Law. After nearly three years of engagement, the National Federation of Federal Employees (NFFE) has determined it will not endorse the launch of the new series in its current form. The Union's primary goal was to ensure the position descriptions (PDs) are accurate, reflect the modern emergency duties of the positions, and conform to classification standards. Management will implement the series using position descriptions we believe remain flawed. As a result, employees who volunteer to opt-in to the new series will still be performing duties without equal pay for substantially equal work in violation of law, rule and regulation.

The Union saw the new job series as an opportunity to end wage theft that has continued for decades. The wildland firefighter positions have been misclassified because the hard work wildland firefighters perform day-in and day-out has not been included and graded. The Union's team of dedicated union wildland firefighters and NFFE's Deputy General Counsel worked in good faith with management, kept key details internal and confidential, and offered suggestions derived straight from the OPM's Position Classification Standard for Wildland Fire Management, 0456 and the document stating the statutory basis for the development of classification standards by OPM, the Introduction to the Position Classification Standards¹.

Specifically, NFFE requested the opportunity for a union employee in each position to review and correct errors to current position descriptions (PDs), rather than solely rely on outsider review. NFFE requested USDA and USFS invite OPM to be directly involved. We asked to adopt a career ladder progression up to a Grade 7. We asked for EMT duties to be specifically included and graded. Forest Service has not demonstrated they are following OPM guidelines for calculating time spent performing major duties, including time spent training to perform those duties and time designated to perform major duties. Namely, OPM's Position Classification Standard for Wildland Fire

¹ <https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/standards/0400/g0456.pdf>

<https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/positionclassificationintro.pdf>

Management, 0456, provides on Page 8:

The necessity for readiness requires firefighters to often be trained for duties and responsibilities that they do not regularly perform. Duties demanding less than a substantial, i.e., 25 percent amount of time are not usually considered in classifying or grading a position. However, when evaluating emergency related duties in an occupation like wildland fire management, credit is given for maintaining proficiency in higher graded tasks even though they may not occur frequently. The criticality of the employee's prompt response to an emergency seldom permits the reassignment of such tasks to a higher graded staff member.

We made these requests time and time again. Unfortunately, most of our requests were not agreed to.

In our view, the new job series is an unfinished product. We have attached an addendum outlining specifics in support of this view. During the first year of work, the Forest Service copied and pasted the legacy 0462 PDs into the new job series and only sought to only fix "fatal flaws and grammatical errors". Once the Union became directly involved, the Washington Office avoided making substantive additions at our suggestion and debated our field experience with us. They added duties of their choosing. We saw that USFS was not following the OPM's Position Classification Standards. We raised concerns about the process with OPM and the Forest Service stopped meeting with us.

In late July of 2023, Management reengaged NFFE with the intent of NFFE revising and endorsing close to 200 PD's in the span of three days. We declined and urged the Agency to take another run at accurately capturing current duties, including Interagency Fire Program Management Standard (IFPM) qualifications, so the complexity of the positions could be correctly graded. We suggested each PD be reviewed by incumbents in their functional area to make sure each one captures the emergency duties – the major duties that represent the primary reason for the position's existence. The Union assembled a team of SMEs during a busy fire season who were committed to do this work on short turn-around on balance with other priorities. Throughout 2023 and 2024, we requested, at several junctures, the opportunity to do a collaborative line-by-line review of PDs. We even shortened the list of PDs for review to the eighteen position descriptions of most concern at GS-7 and above. Those positions we wanted to review and get right are namely: IHC (3 PDs), handcrew (2 PDs), WFM (3 PDs), Engines (2 PDs), AFMO (1 PD), helitack (~2 PDs), Jumpers (~3PDs) and rappellers (~2 PDs). Management refused to do additional line-by-line PD review beyond the initial 2022 review.

Wildland Firefighters across the country are increasingly performing Emergency Medical Technician (EMT/EMS) duties daily. Across the government, positions including those duties are graded at a GS-7. The Forest Service expects its employees in GS-3/4/5 and 6 positions to perform these duties without compensation, as they have for years. The Union pressed the Forest Service to pay employees fairly when they are performing higher graded EMT work. The time to fix the EMT duties wage theft is now. Management claims they intend to account for EMT duties as part of a broader workforce modernization and restructuring effort over the next year or so, but Forest Service will not remove the duties in the meantime.

Just in the last month, Management agreed to our request to include IFPM qualifications in position descriptions. The Union wanted position descriptions that specifically incorporate IFPM qualifications to ensure that the highest level of grade-controlling duties possible were communicated clearly to classification. However, management's choice of distilled language fails to capture the full

scope and complexities of IFPM qualifications to be a meaningful addition as emergency duties. If our emergency duties were included in the PDs and properly credited, and the new series fully reflected IFPM qualifications, the classification process likely would result in upgrades. We pushed for upgrades for the hotshot superintendents to GS-10, commensurate with BLM, but also found handcrew superintendents needed upgrades as the fundamental work has become the same. In point of fact, the Forest Service – despite proclamations of working “lockstep” with the DOI – has not even produced PDs that were classified at the same grade-level of many of the DOI equivalents, creating yet another major foundational crack from which to leak skilled wildland firefighters.

In addition, one of our concerns was the prolonged abuse of employees assigned higher graded duties without compensation. This pattern is not just limited to EMT/EMS duties. The agency has for far too long taken advantage of employees performing above their respective PD, sometimes by choice, other times persuaded as something needed to meet the agency’s mission under the pretense of “other duties as assigned”. “Other duties as assigned” assignments are for tasks that are appropriate for an employee’s current grade, not for work requiring grade controlling duties, such as performing in a IFPM qualification required of a higher-graded position. We asked management to provide guidance about proper use of “other duties as assigned” and have yet to see it. The Forest Service will receive a lot of new grievances asserting violations of our new Master Agreement and OPM’s revised regulation governing temporary promotions from employees who have been performing higher-graded work without compensation.

It is our opinion that the Forest Service sought to adopt what amounts to largely a “title change only” new occupational series to avoid a devastating budget shortfall by continuing the exploitation of its workforce. Ultimately, it is management’s responsibility to manage the workforce and address the serious issues employees have raised through the union. We did our best to influence and encourage good decision-making. Now we leave it to the members to determine whether the new series works for them.

We will be recommending that employees do not opt-in to the new series to receive the new title. Employees must apply and compete for an opportunity to be placed in a new career ladder under the 0456 series. The Union intends to use early engagement with the Agency to secure fair opportunity for current employees to be selected for any new career ladder positions. We will educate our members on their right to request desk audits once in the new series. It is unfortunate this effort will result in so many desk audits. Desk audits are administratively burdensome, time consuming and results may not be satisfactory. We asked management to make clear what duties are required of a position and what duties employees may rightfully refuse to perform without fear of retaliation or discipline. Our union will make sure employees have the knowledge needed to navigate the irregularities within the new job series, if they choose to opt-in.

We will also be approaching Congress regarding our critical need for increased appropriations to support the wildland firefighting effort. Congress has oversight on the implementation of the new occupational series and we anticipate legislative inquiries will result from this letter. We have copied Members of Congress on this letter who support wildland firefighters to this end.

We ask OPM to become directly involved to address our raised issues as appropriate. We call on Congress to act and appropriate the necessary additional funds to pay wildland firefighters fairly and correctly for their work. Until federal wildland firefighters are paid at least commensurate with

cooperators, we will continue to be short staffed and under-resourced to meet our nation's forest management goals.

Sincerely,



Randy Erwin
National President
National Federation of Federal Employees
IAMAW, AFL-CIO

Attachment

Cc: Robert Shriver, Acting Director Office of Personnel Management

Timothy Curry, Deputy Associate Director for Accountability and Workforce Relations

Senator John Barrasso (R-WY)

Senator Michael Bennet (D-CO)

Senator Martin Heinrich (D-NM)

Senator Joe Manchin (D-WV)

Senator Alex Padilla (D-CA)

Senator Kyrsten Sinema (I-AZ)

Senator Jon Tester (D-MT)

Rep. Ruben Gallego (D-AZ)

Rep. Josh Harder (D-CA)

Rep. Susie Lee (D-NV)

Rep. Celeste Maloy (R-UT)

Rep. Joe Neguse (D-CO)

Rep. Katie Porter (D-CA)

Rep. Jamie Raskin (D-MD)

Andrea Delgado, Chief of Staff, USDA Office of the Under Secretary for Natural Resources and Environment

Anthony Scardina, Senior advisor for Programs, USDA Office of the Under Secretary for Natural Resources and Environment

Jaelith Hall-Rivera, Chief of Staff, Office of Chief US Forest Service

Jeff Marsolais, Associate Deputy Chief for State and Private Forestry US Forest Service

Tracy Tophooven, Associate Deputy Chief of Business Operations US Forest Service

Deedra Fogle, Director of Human Resources Management, Business Operations US Forest Service

Shawn Patterson, NFFE Forest Service Council President

Warner "Andy" Vanderheuel, NFFE Forest Service Council Vice President

Abel Martinez, NFFE Forest Service Council Fire Committee Co-Chair & PD Committee

Joshua Northrup, NFFE Forest Service Council Fire Committee Co-Chair & PD Committee

Jonathan "Hoby" Miller, NFFE Forest Service Council PD Committee

Morgan Thomsen, NFFE Forest Service Council PD Committee

Ben Elkind, NFFE Forest Service Council PD Committee

Yvette Piacsek, NFFE Deputy General Counsel

Steve Lenkart, NFFE Executive Director

Addendum of specific issues found by NFFE Team

Below diving into specific examples, errors were found that were not corrected, work not organized properly, deceptive tactics utilized to keep grades lower, and policies violated. Note: NFFE members have spent hundreds of hours reading and discussing relevant policy documents and we'll try to explain as simply as possible:

1. Hotshot (IHC) Squadboss: Error in grading factor, Uncorrected;
2. IHC Superintendent: Error in grading factor for over 20 years, Corrected;
3. Engine Assistant: Deceptive acronym used to hide supervisory duties;
4. Handcrew Assistant: Crew organized improperly to meet stated goals;
5. EMT: Major grade-controlling duty ignored.

Hotshot (IHC) Squadboss

The Hotshot Squadboss GS-7 PD[2] has been incorrectly scored by FS classifiers. Factors 6 & 7 are combined into a matrix to determine an overall score for those two factors. Compare the Forest Service grade determination vs. the grading guide[3] for this position.

From the FS PD (note the factor level of 7-A for this factor):

Factor 7. Purpose of Contacts	Factor Level 7-A	45 Points
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The purpose of personal contacts is to: plan and coordinate work efforts; explain the need to adhere to laws, rules, contract, or lease provisions; discuss inspected work and contract requirements when monitoring activity of contractors; discuss technical requirements of equipment with manufacturers and resolve problems concerning the work or the peculiar needs of the organization; interpret data obtained and explain its purpose and significance; or reach agreement on operating problems such as recurring submission of inaccurate, untimely, incomplete or irrelevant data. The persons contacted are usually working toward a common goal and generally are reasonably cooperative. Some technicians may be required to deliver information, such as how data was obtained and their opinion as to its accuracy, in court.

Now compare to the grading guide:

Purpose of Contacts

- a. The personal contacts are established to: exchange information about procedures, schedules, or operating problems; clarify information on records; report on the results of studies; explain the steps involved in operating equipment; explain the reason the work is being performed; or other similar exchanges of factual information. The facts or information exchanged may range from easily understood to highly technical.
- b. The purpose of personal contacts is to: plan and coordinate work efforts; explain the need to adhere to laws, rules, contract, or lease provisions; discuss inspected work and contract requirements when monitoring activity of contractors; discuss technical requirements of equipment with manufacturers and resolve problems concerning the work or the peculiar needs of the organization; interpret data obtained

and explain its purpose and significance; or reach agreement on operating problems such as recurring submission of inaccurate, untimely, incomplete or irrelevant data. The persons contacted are usually working toward a common goal and generally are reasonably cooperative. At this level, some technicians may be required to deliver information, such as how data were obtained and their opinion as to its accuracy, in court.

Clearly, the PD language matches level “b” in the grading guide and should be scored at the 7-b level. This matrix calculation would increase the score by 30 points. Because the position is graded at 1,595 points, and 1,600 points are required to be scored as a GS-8, this position should be graded at the GS-8 level.

IHC Superintendents

Hotshot Superintendent GS-9 PD[4] has been improperly graded for decades.

Supervisory positions are graded with the OPM General Schedule Supervisory Guide[5] (GSSG). The factor scores begin on page 9 of the GSSG. Factor 1: Program Scope and Effect was graded at the lowest possible grade level 1, for a value of 175 points. This factor scores lower than type 2 handcrews, engine modules and even their own assistant, who presumably works in the same programs with the same scope!

However, IHC Superintendents were scored at 2,090 points, only 10 points shy of grading out as a GS-10. The difference in grade was a mere 0.04% of the total score needed for a higher level. By making this mistake in grading, IHC Superintendents were underpaid for decades.

Changing the factor 1 score to level 1-2 would add 175 points to the score, making them a GS-10.

Fortunately, we were able to bring this to management’s attention and get it fixed, in both job series, the 0462 and the 0456. There is no need for IHC Superintendents to opt-in to the new job series to get the higher wages and benefits.

This is a clear example why union involvement and true SME participation is essential.

Engine Assistant GS-07[6] uses deceptive language to hide supervisory duties in PD.

The Engine Assistant PD has several abbreviated terms that are written out clearly on the first page. In fact, the only term that is abbreviated without description is the supervisory duty of “supervisory fire engine operator.”

See the overall description below:

This position is categorized as a Supervisory Engine Operator (SEOP) position in the Interagency Fire Program Management (IFPM) Standard and Guide as designated by the W.O. Fire and Aviation Management. The IFPM selective placement factors for this position must be attained by October 1, 2010, and thereafter must be met prior to entrance into the position as a condition of hire. Refer to the Forest Service IFPM Standard Position Description Crosswalk for a full description of the selective placement factors.

Incumbent must possess and maintain a valid state driver's license. If applicable, the incumbent may be required to possess and maintain a valid commercial driver's license (CDL). If a CDL is required, the position is a Testing Designated Position (TDP) under the Department of Transportation (DOT)/Forest Service Alcohol and Controlled Substance Testing Program. The incumbent will be required to submit a urinalysis specimen at a designated medical facility, to screen for illegal drug use. These screenings are required prior to appointment and on a random basis post appointment.

And here are the major duties of the job (note: SFEO is never explained in the PD):

As acting SFEO 40% of the time, the engine operator is responsible for the day-to-day operation of the fire engine module, prepares schedules and work plans and sets work priorities. In the absence of SFEO, may serve as initial attack Incident Commander on wildland fires and wildland urban interface/intermix situations occurring on the unit. Identifies and analyzes tactics and strategies employed on these incidents, and revises and/or develops approaches in view of specific incident conditions. May be assigned regardless of geographic location to other fireline supervisory positions.

How can a position that is categorized as "Supervisory Engine Operator" and works as a "Supervisory Fire Engine Operator" 40% of the time, not be considered a supervisory position? That was never answered, and classifiers seemed surprised at that outcome.

We asked for the appropriate correction to recognize this position as supervisory and grade appropriately.

Handcrew Assistant

Type 2 Handcrew Assistant GS-07[7], Type 2 handcrews recently added a second assistant position on the org chart, and the USFS Washington Office cited improvements to Work/Life Balance for the increased number of personnel in the organization.

But when looking closely at the PDs, the assistant positions don't make sense. If it is to improve work/life balance for the crewboss, then the assistant would need to be crewboss qualified in the IFPM requirements for the position.

Technically, when the crewboss is away on leave, assignment, detail, etc... the crew would need to stand down when asked to respond to fires or other crew functions. Asking an assistant to perform as a crewboss without that major duty in the PD is a policy violation. "Other duties as assigned" is often cited when performing work above your PD in the Forest Service, but that is illegal. Page 19 of the classifier's handbook states:

Because minor duties normally do not affect the classification of the position, are usually unimportant to work operations, and change frequently, it is generally not necessary to mention them in the position description. A statement, such as "Performs other duties as assigned," covers such situations adequately. Sometimes, however, minor duties can influence both grade and series determinations and the qualifications required for the work. In cases such as these, what seem to be minor duties must be described and evaluated.

Operating as Crewboss is neither unimportant nor minor, and therefore should be described as a duty of

the job.

We asked that the crewboss qualification be added to the IFPM requirements of the assistant handcrew captain, and that the position be deemed supervisory.

The 0456 series standard addresses “handcrew work” in the FAQ (no. 9, page 55), where OPM and agencies seem to agree that “hotshot work” and “handcrew work” are materially the same work. Why a hotshot handcrew of 20 would have 3 supervisors and 6 crewbosses, while a 20-person type-2 handcrew only has 1 supervisor and 1 crewboss is inexplicable.

We asked that this disparity be brought into closer alignment, so that our type-2 employees could have similar work/life balance that other modules enjoy, can be responsive to fires when the only crewboss is on vacation or training assignment, and that we can improve retention at the type-2 level.

Emergency Medical Technician (EMT):

The FS Emergency Medical Services (EMS) program is established within National Registry of Emergency Medical Technicians (NREMT) as its own “state” and an official EMS agency. They have representation on the Federal Interagency Commission on EMS (FICEMS) and fall under the rules and regulations of the Department of Transportation (DOT) National Highway Traffic and Safety Administration (NHTSA). Their “state” regulations are FSM 6900, which is the EMS Program Directives. Our mandated medical oversight comes from a network of Local Emergency Medical Advisors and a National Medical Director. They have a program manager, a program specialist, a data scientist and a program support credential specialist at the national level. Additionally, each FS region has a regional EMS coordinator and each unit has a unit level EMS coordinator. Currently, there are over 1,050 credentialed EMTs that have an obligation to act at all times when at work.

Page 8 of the OPM Series Standard for the 0456 job series is clear, emergency duties may be major duties when the meet certain criteria for time performed:

Time spent doing the work

Time spent training or preparing to do the work

Time spent maintaining a state of readiness, designated to do the work if the need arises

These criteria were developed when a fire engine crewmember requested an audit due to their duties of driving the engine being at a higher pay grade than their current position.[8]

In the United States, all EMTs with medical direction, at work, have a legal obligation to act, therefore spending 100% of their time “maintaining a state of readiness, and designated to act if the need arises.” This criteria means that EMT work is a “major duty” and needs to be included in the PD and fairly compensated by the Forest Service.

Page 8 continues to explain how to grade positions with multiple specializations:

As wildland fire management positions may require multiple specializations, the evaluation of positions of this nature shall be treated the same as other potentially mixed grade positions. (For further guidance see the Introduction to the Position Classification Standards, Section I.)

OPM has graded EMT work in other job series as a GS-7. The most relevant PD found for EMT work, providing basic life support, is in the “Fire Protection and Prevention Series - 0081”[9]

Failing to include this major duty violates the law. It is wage theft, and it shows a level of disconnection that is shocking. We asked that the Forest Service correct this mistake and manage the EMS program, and they declined to properly pay and classify their EMS workers. Solutions would be stand alone GS-7, WFF/EMT PDs and career ladders to the GS-7 level.