

Memorandum of Understanding (MOU)
Medical Qualification Standards Program
October 2, 2006

This agreement is between the USDA-Forest Service (Management) and the National Federation of Federal Employees (NFFE) Forest Service Council (Union), hereinafter referred to as the “Parties.” Agency as used in this MOU refers to USDA-Forest Service. This agreement covers only NFFE-FSC bargaining unit employees. Consistent with the Master Agreement (MA), this document establishes the procedures and arrangements to be followed with the implementation of the Federal Interagency Wildland Firefighter Medical Qualification Standards Program (MSP) for employees who are to perform wildland firefighting work requiring the arduous physical fitness level. The Parties agree to the following:

1. Agency designated and provided MSP health care professionals will be the sole medical providers for initial medical screening and associated procedures. In accordance with regulations and policies, employees may provide timely supplemental information from their private physician or other professional medical provider for consideration in making MSP qualifications determinations. Initial MSP health screenings and associated medical exams will be paid by the Agency. Any follow-up examinations directed in writing by Management will be paid by the Agency. Any cost for examinations, information or other procedures requested or obtained by the employee to provide further information for the purpose of influencing or contesting an MRO decision will be paid by the employee if such examinations/procedures are not specifically directed in writing by Management.
2. Employees subjected to an unsafe situation or condition during an Agency MSP examination may exercise their rights under Article 27.11, when applicable.
3. During the first year of implementation within each Region, a unit Fire Management Officer or other designated management representative will be present at the medical exam site or immediately available by telephone to enable employees to speak with a management representative about any concerns that arise during an exam.
4. Medical information is confidential and is to be shared only with individuals with a bona fide “need to know” for the proper and efficient conduct of agency business. Normally, such information will **not** be shared with an employee’s first or second level supervisor. These supervisors will normally only be notified that an employee has cleared or has not cleared the medical screening and of any medical limitations or restrictions that arise as a result of the medical exam. Employees are to be contacted by the designated Servicing Human Resource Office (SHRO) or an appropriate line officer when they do not clear the medical screening. These employees will be provided information on how to proceed with the waiver/accommodation process, which may

include HRM and regional FAM and/or Civil Rights involvement. If no waiver/accommodation is provided at this stage, these employees will be provided information by the Agency on the process necessary to assist the Interagency Medical Review Board (IMRB) in reaching a decision for waiver/accommodation. Should the employee desire further consideration, he/she must request IMRB review within five days (temporary employees) or thirty days (permanent employees) of being notified of the local level determination, or as otherwise stated. After IMRB review and decision by the Agency, employees deemed disqualified due to their failure to pass the medical standards for the occupation will be advised of their grievance and/or related appeal rights, including to whom a pre-grievance or grievance is to be addressed.

5. The employee will pay for any personal equipment or device he/she needs to meet a medical standard or be granted a waiver with restriction from a medical standard. Personal equipment is specific to that employee, is not generally used by other employees and is not Personal Protective Equipment (PPE). Any additional equipment (including PPE) management requires of the employee over and above what is necessary to meet a medical standard or to have a standard waived with restriction, will be provided by the Agency.

6. Any reasonable accommodation required for a person to perform their normal duties, including computer hardware, software, or other equipment or devices used to enable the employee to perform the work of the position, will be procured by the Agency when required by the Rehabilitation Act (as amended) or applicable provisions of the Americans with Disability Act, while implementing Government-wide, USDA or Forest Service regulations and policies.

7. Employees who do not meet the medical standards will be immediately removed from arduous duty assignments. Prior to removing an employee from their position for failure to meet applicable medical standards, the Agency will consider other options including, but not limited to, reassignment to a position not covered by medical standards.

8. A staff member from the National Fire Operations Safety Office, or other appropriate unit, will represent the Forest Service on the IMRB. The purpose of the Board is to review any cases of employees not meeting the medical standards. The Union will be given reasonable advance notice by Management regarding the meeting date and location. When an employee provides a specific written waiver of privacy rights for a Union representative, a representative will be allowed to attend the IMRB meeting as an observer; they will not participate in the meeting as a member of the Board. Similarly, the Union representative will be provided confidential medical documentation when a specific written waiver has been signed by the employee. In the interest of economy and efficiency, attendance at the meeting via conference call should be considered a viable option, as mutually agreed. The representative will be required to sign, in advance of the session, or travel thereto (if applicable), a confidentiality agreement. Upon request, the Union also will be provided a synopsis of BUE cases being discussed, consistent with the Privacy Act, Rehabilitation Act and other applicable laws and regulations.

9. Management training will be conducted regionally as the Medical Standards Program is implemented. Management will notify the NFFE-FSC President of the training schedule soon after training dates and locations are identified. One representative from each Local may attend a local MSP training session held to introduce or update implementation of the MSP. In the event the union representative has a legitimate reason and is unavailable to attend the local session, they will make arrangements with their supervisor and the designated local unit MSP coordinator to attend another nearby session, consistent with MA Article 5. The intent is that every effort will be made to attend the training session held for the local unit.

10. Employees will be informed of the MSP program, processes, and protocols that directly affect them; this information will be included in an introductory package distributed electronically or hard copy, to affected employees. The Union will be afforded the opportunity to review and provide input to the contents of the package prior to distribution to employees.

11. Employees will have access to their agency-maintained medical records; a copy of such records will be provided to the employee at no charge upon written request to the SHRO or other designated office within 30 days of receipt of the written request.

12. The Union (NFFE-FSC President or designee) will be provided information upon request when data are generated, but not more than semi-annually, regarding the number of employees who have taken the medical standards examination, how many employees have passed, how many have failed, and the reason(s) for failing the test.

13. Prior to decision by the Federal Fire and Aviation Safety Team (FFAST), Interagency Medical Standards Team (IMST) and/or National Fire and Aviation Executive Board (NFAEB), the Union will be notified of proposed substantive changes to MSP processes, standards, or tests. If the Union desires to request substantive changes to MSP processes, standards, or tests, they may provide an individual to present their position directly to the FFAST representative. The FFAST representative will: (a) forward any Union-submitted written materials to the FFAST members, (b) discuss the substantive change(s) with the FFAST members and (c) where additional information or clarification is needed, request that the FFAST invite a NFFE-FSC representative to present the Union's comments and proposal, in person or via conference call. If the FFAST so decides, it will coordinate with the IMST and/or NFAEB to request review and consideration of the Union's proposal.

14. The parties agree that any potential or actual impacts on any bargaining unit employee due to any differences in medical standards for non employees' may be addressed in a separate forum upon request of either party.

During the period of implementation, the Parties will meet when mutually agreed, but not less than once per year upon request of either party, to discuss the MSP and the terms of

the MOU. After full implementation, either party may request discussion of concerns as a Forest Service Partnership Council (FSPC) agenda topic, based on established FSPC protocol. This MOU can only be revised upon agreement of the Parties in accordance with Article 11, Mid-Term Negotiations, of the Master Agreement. The MOU is effective when signed below.

For Management:

/s/ Hank Kashdan

HANK KASHDAN
Deputy Chief, Business Operations

Date: October 2, 2006

For the Union:

/s/ William Dougan

WILLIAM DOUGAN
President, NFFE-FSC

Date: September 21, 2006