



United States
Department of
Agriculture

Forest
Service

Washington
Office

1400 Independence Avenue, SW
Washington, DC 20250

File Code: 6180

Date: July 21, 2005

Route To: 6180

Subject: Professional Liability Insurance

To: Regional Foresters, Station Directors, Area Director, IITF Director, and WO Staff

There has been considerable discussion and interest in the Regions to expand the reimbursement coverage for the Professional Liability Insurance (PLI). The discussion is focused on including the Incident Commanders and those who volunteer for fire assignments and who are not normally in supervisory or managerial positions in the reimbursement for PLI. WO staffs from Human Resources, Legislative Affairs, and Fire and Aviation are working on a remedy.

Until a remedy is secured, you are reminded that Public Law 104-208 Section 636 allows agencies to reimburse a **qualified** employee for one-half of the cost incurred by the employee for purchase of PLI. According to Section 636(b) of the law a **qualified** employee is an agency employee whose position is that of a law enforcement officer (LEO), supervisor or management official. A supervisor/management official is identified on the personnel action under the field called Position Supervisor Code with a 2, 4, or 5. The definition of supervisor may be found at 5 USC 7103(a)(10). This section states, "with respect to any unit which includes firefighters or nurses, the term 'supervisor' includes only those individuals who devote a preponderance of their employment time to exercising such authority." The Forest Service Handbook Section 6109.12,70 Amendment No. 6109.12-99-3 subsection 71.04 (see enclosed) states that the head of the servicing human resources office (SHRO) is responsible for offering the reimbursement to eligible employees. It would be contrary to law for the SHRO to certify that employees are eligible for reimbursement of PLI if they don't meet the requirements of the law indicated above.

There are groups of employees, including Incident Commanders, who do not meet the legal definition of a supervisor even though they may be exercising independent judgment, assigning work, managing, and/or supervising other employees while on a fire assignment. This is because a fire assignment is considered to be temporary in nature and as a result the employees are not performing the responsibilities specified in the General Schedule Supervisory Guide. In addition, the temporary nature of the fire assignment does not contribute to the Position Description (PD) having a preponderance of time exercising supervisory or managerial authority.



Please ensure that those employees who are currently ineligible for reimbursement of the PLI premiums are aware that they are eligible to apply for PLI on their own by paying the full premium which is about \$300 per year.

If you have any questions on this please contact Teresa Marler at (703) 605-0844 or tmarler@fs.fed.us.

/s/ John G. Lopez
JOHN G. LOPEZ
Director of Human Resources Management

Enclosure
cc: Kathy McAllister, Tom Harbour