



**File Code:** 5100

**Date:** July 28, 2006

**Route To:**

**Subject:** State Incident Commanders

**To:** Regional Foresters

The 2006 Administratively Determined (AD) Pay Plan FSH 5109.34 Section B.4 states, "The Area Commander, Type 1 or Type 2 Incident Commander, Type 1 or Type 2 Deputy Incident Commander . . . are key positions and may be filled only by current agency employees." Several State employees are qualified in positions listed in this section of the handbook. Some States permit their employees to accept assignments paid through reimbursable agreements. This allows them to serve in these "key positions" on Federal incidents. Other States require their employees to be hired as AD's; and interpretations prohibit their hire as Incident Commanders.

In December 2005 the USDA Office of General Counsel declared that AD hires met the definition of employee in 5 U.S.C 2105 (a). It also stated that because they were considered employees, the Forest Service could issue policy to identify which positions that were typically considered "inherently governmental" could be filled through the AD Pay Plan. Several issues remain unresolved, so a comprehensive analysis and policy determination has not yet been completed.

On this day, July 28, 2006, commitment of resources met the criteria for PL 5 for the first time in three years. There is a critical shortage of most resources, especially leadership positions. Therefore, I have decided that as of today, State employees who meet the qualifications for T2 Incident Commander or Deputy Incident Commander, and who cannot work on Federal Incidents by State policy or statute under their employment status or cooperative agreement, can be hired under the AD pay plan. This policy does not include the use of retirees, private citizens, or contractors in these key roles.

ICT2 and Deputy ICT2 will be hired at the AD-L \$33.84 per hour (\$42.32 Alaska; \$41.28 Hawaii).

Contact Karyn Wood at 208-387-5605, or Mary Ann Szymoniak at 208-387-5944 with questions.

/S/ TOM C. HARBOUR  
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cc: Regional Fire Directors  
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