



United States Department of the Interior

NATIONAL PARK SERVICE
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Washington, D.C. 20240

DIRECTOR'S ORDER #57A: MEDICAL STANDARDS PROGRAM

Approv 
Director

Effective Date: 1/9/2014

Duration: This Order will remain in effect until amended or rescinded

Director's Order #57A, in conjunction with Reference Manual 57A (RM-57A), establishes and defines general standards, policies, and procedures for all medical standards functions for arduous duty law enforcement positions within the NPS. This Order supplements section 1.9.1.4 of NPS *Management Policies* 2006 and supersedes the March 1, 1999, edition of this Order.

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1. BACKGROUND AND PURPOSE

Background. The National Park Service (NPS) can achieve its public trust responsibility to provide effective and efficient arduous duty services only by fielding a well-trained, fully capable workforce. A healthy workforce is the key to avoiding lost work time due to injury and illness.

In 1993, the NPS officially determined that its designated law enforcement and firefighter positions would be managed under the provisions of enhanced annuity retirement (as authorized by 5 USC 8336(c)). The purpose of enhanced annuity retirement is to enable agencies to field a workforce capable of performing the arduous positions of law enforcement and firefighting.

Under the authority of 5 CFR part 339, "Medical Qualification Determinations," the NPS may establish medical standards when the duties of a position are arduous or hazardous, or require a certain level of health status or fitness because the nature of the positions involves a high degree of responsibility toward the public. Accordingly, the NPS has approved standards for

commissioned park rangers, criminal investigators, and those park ranger positions that have been designated for enhanced law enforcement coverage, as well as other arduous duty personnel. The standards and this Order (as supplemented by RM-57A) are consistent with and implement Department of the Interior requirements for designated positions performing arduous duties. [*See text box at the bottom of this page.]

Policy and other guidance for other arduous duty medical standards programs is limited and, to a limited extent, articulated in other documents. The ultimate goal of the arduous duty Medical Standards Program is to include all NPS positions involving arduous duties requiring medical qualification approval. In addition to meeting legal requirements, the intent of the Medical Standards Program is to improve the safety and professionalism of all employees who perform arduous duties. The Medical Standards Program is used to determine whether a disease process, physical impairment or limitation, and/or medication necessary for treatment has the potential to adversely affect reliable performance of the essential NPS arduous duty job functions, and thereby pose unacceptable risks to Government interests and to public and employee safety.

Arduous duty personnel must be ready, willing, and able to safely and efficiently perform the full range of essential duties and responsibilities of their position, under sometimes harsh, unforgiving, unpredictable and, at times, life-threatening conditions. These are bona fide occupational qualifications for such positions. The requirement to perform the full range of essential duties and responsibilities extends to: (a) Service-wide availability; (b) 24-hour availability or after-hours call back; and (c) the ability to perform full, unrestricted arduous duties.

Even if some of the essential, critical duties are rarely, or never, required to be performed, NPS arduous duty personnel must at any given moment be ready, willing, and able to perform them.

Purpose. The purpose of this Director’s Order (as supplemented by RM-57A) is to establish policies and operational procedures for the arduous duty Medical Standards Program covering arduous duty law enforcement positions. Some of these law enforcement positions may also include wildland firefighting or structural firefighting as a collateral duty.

This Director’s Order aims to help fulfill the goal of having a workforce of arduous duty employees capable of performing their duties safely and effectively, with a high degree of responsibility toward themselves, their co-workers, the public, and national security concerns.

*Note: “Arduous” is the operable word in the regulation that governs appointments, whereas “rigorous” is the operable word in the regulation that governs retirements.

“Arduous position,” as defined in 5 CFR 339.104 (governing appointments), means a position that is dangerous or physically demanding to such a degree that an incumbent’s medical condition is necessarily an important consideration in determining ability to perform safely and efficiently.

“Rigorous position,” as defined in 5 CFR 842.802 (governing retirement eligibility), means a position the duties of which are so rigorous that employment opportunities should, as soon as reasonably possible, be limited (through establishment of a maximum entry age and physical qualifications) to young and physically vigorous individuals.

To avoid confusion, this Order uses the word “arduous” in place of “rigorous.”

Guidance on other NPS arduous duty medical standards programs – including dive, search and rescue, wildland fire, and structural fire – can be found in their respective Director’s Orders or reference manuals. With further regard to structural fire, primary duty law enforcement or wildland fire employees who have structural firefighting as a collateral duty will be compliant if they meet the medical requirements of their primary duty position; employees in any primary duty position other than law enforcement or wildland fire must meet NFPA-1582 standards.

2. AUTHORITY

The general authority to issue this Order is contained in 16 USC 1-4 (1916 NPS Organic Act, as amended and supplemented), and delegations of authority in part 245 of the Department of the Interior Manual.

Specific authorities and requirements applicable to employees performing physically arduous duties covered by this Order are found in:

Laws

- 5 USC 3301 (Civil service; generally)
- 5 USC 3307 (Competitive service; maximum-age entrance requirements; exceptions)
- 5 USC 552a (Privacy Act of 1974)
- 29 USC 701-796l (Rehabilitation Act of 1973)
- 29 USC 1181 *et seq.* (Health Insurance Portability and Accountability Act of 1996)

Executive Orders

- Executive Order 11478 (Equal Employment Opportunity in the Federal Government), as amended by Executive Order 13087

Regulations

- 5 CFR part 300-Employment (general)
- 5 CFR part 339-Medical Qualification Determinations
- 5 CFR part 842-Federal Employees Retirement System
- 10 CFR 4.101-Definitions
- 29 CFR 1614.203-Rehabilitation Act
- 29 CFR 1910.1020-Access to employee exposure and medical records

Departmental and OPM Guidance

- Part 446 of the Department of the Interior Manual (Law Enforcement)
- Department of the Interior Occupational Medicine Program Handbook (September 2009)
- OPM/GOVT-10 (employee medical file system records) (see 71 Fed. Reg. 35360 *et seq.*)

This Order is intended only to improve the internal management of the NPS and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

3. POLICY, NPS OBLIGATIONS, AND RESPONSIBILITIES

This Order sets forth the policy, obligations, and responsibilities for managing an effective Medical Standards Program within the NPS.

3.1 Policy

Maintaining the medical, mental, and physical health of our employees is vital to the NPS. It is our policy and legal responsibility to provide for a safe and healthful place of employment. To implement this policy, NPS employees will comply with the requirements of this Director's Order.

3.2 NPS Obligations

The NPS must:

- A.** Adopt generally accepted occupational medical practices, principles, and standards, based on reasonable medical probability, that demonstrate the employee/applicant can safely and efficiently perform critical functions that may rarely, if ever, be required to be performed, but which the employee/applicant must be fully capable of performing at any given moment.
- B.** Meet or exceed all current applicable statutory, regulatory, and policy requirements relating to medical standards. Where conflicts arise between statutory, regulatory, and policy requirements, and codes and standards, the more stringent requirement(s) will be used. If codes, standards, procedures, and guidelines do not exist, or those that exist are not adequate, appropriate policies or programs will be developed.
- C.** Maintain trained and qualified medical standards personnel to provide technical support and advice to managers and supervisors.
- D.** Assure Service-wide consistency in the implementation and operation of the Medical Standards Program. Coordination and integration of the Program within existing functional and organizational structures must take place and be coordinated primarily at the Washington Office level by the Medical Standards Program Manager. Final Service decisions regarding the medical status of individuals to perform arduous duty operational functions and associated training activities will be made by the Medical Review Board (Board) and communicated to the Associate Director, Visitor and Resource Protection.

3.3 Responsibilities

A. Director

The Director has ultimate responsibility for the implementation of the Medical Standards Program, and will set forth appropriate Service-wide policies and goals and establish a system of accountability.

B. Associate Director, Visitor and Resource Protection

The Associate Director, Visitor and Resource Protection will:

1. Acting through the Chief, Law Enforcement, Security, and Emergency Services, oversee the Medical Standards Program and develop necessary standards and procedures.
2. Continually evaluate and communicate vision, progress, and a personal commitment to the goal of promoting a healthy and vigorous workforce in the Service.
3. Promulgate and periodically revise RM-57A, training courses and materials, certifications, and other necessary materials and documents to implement and operate the Medical Standards Program consistent with the policies, procedures, and authorities contained in this Director's Order.

4. Distribute, and otherwise reproduce within RM-57A, the medical standards approved by the Department for arduous duty positions. Wildland firefighting medical standards will be found in Reference Manual 18, *Wildland Fire Management*. All standards will be applied uniformly by all managers throughout the Service.

C. Medical Standards Program Manager

The Medical Standards Program Manager (MSPM) will:

1. Serve as the coordinator for all aspects of the Medical Standards Program. The MSPM will collaborate and coordinate with all disciplines within the NPS having employees with arduous duty responsibilities.
2. Be responsible for executing all programmatic and policy determinations regarding the Board; the central point of contact for all external agency issues; and as the central clearinghouse for the Medical Standards Program.
3. Be the technical expert for the program, which requires assisting in the development of policy, facilitating program implementation and oversight and maintaining liaison with a variety of organizations.
4. Have knowledge of a broad range of arduous duty occupations in the NPS and how to apply the set medical standards.
5. View each individual on a case-by-case basis and, in consultation with the Waiver Review Panel (WRP) or the Board and the Medical Review Officer (MRO), apply the appropriate regulations.
6. Be responsible for the storage of medical records in accordance with:
 - the Health Insurance Portability and Accountability Act;
 - 29 CFR 1910.1020 (Access to Employee Exposure and Medical Records); and
 - the Privacy Act of 1974.

Medical records that require special attention include:

- information and opinions from the MRO; and
 - information submitted by employees and applicants with respect to the medical standard and their arduous duty position.
7. Ensure that notification of the initial determination is made as to the employee/applicant's qualification for the arduous duty position.
 8. Coordinate the Medical Standards Program with the Department, the NPS Law Enforcement Training Center, and various outside agencies, committees, and other organizations.
 9. Pursuant to an applicable collective bargaining agreement, notify the employee's bargaining unit of an employee's appearance before the Board.

D. Chief, Division of Labor and Employee Relations

The Chief, Labor and Employee Relations Division will:

1. Serve as Board chairperson.
2. Serve as the deciding official for waiver requests.

3. Serve as the spokesperson for the Board.
4. Be solely authorized to convene the Board. As part of this authority, the chairperson will:
 - a) decide employee/applicant's request for an advocate to speak on behalf of the employee/applicant;
 - b) determine and direct the attendance of witnesses, documents and consultants for the Board;
 - c) determine whether a quorum is present sufficient to convene a Board;
 - d) preside over the Board proceedings;
 - e) authorize Independent Medical Examinations;
 - f) ensure a fair and just decision process;
 - g) vote in all Board decisions;
 - h) close Board proceedings; and
 - i) communicate final Board decision via memorandum.

E. Chief, Division of Law Enforcement, Security, and Emergency Services (LESES)

The Chief of the Division of LESES serves as the program lead and as the advisor/technical consultant to the Associate Director, Visitor and Resource Protection and the National Leadership Council in the development of the Service-wide Medical Standards Program.

The Chief of LESES will:

1. Provide professional Medical Standards Program assistance and manage Medical Standards Program resources in support of Service-wide policy and programs.
2. Provide data and trend analyses to managers relating to the Medical Standards Program.
3. Coordinate with the NPS training community for effective Medical Standards Program training development and delivery.
4. On behalf of the Associate Director, VRP, oversee the NPS Medical Standards Program and develop necessary standards and procedures for Service-wide arduous duty programs and develop policies and standards for the Director's review.
5. Ensure policy that applicants are screened before they are hired and assigned to arduous duty work, and that employees are regularly monitored throughout their assignment to arduous duties.
6. Provide adequate resources for the effective administration of the program within available resources.

F. Regional Director

The Regional Directors are responsible for providing field leadership and guidance when implementing NPS arduous duty medical standards for their regions through park superintendents.

G. Regional Chief Ranger

The Regional Chief Rangers are responsible for ensuring compliance with this Order and RM-57A.

H. Superintendent

Superintendents will implement the Medical Standards Program through supervision of park chief rangers. Superintendents must ensure that medical standards programs are managed in full compliance with this Order and RM-57A. Superintendents will assign responsibility to appropriate park staff to ensure that the medical standards are applied consistently to both applicants and employees.

I. Servicing Human Resources Office

The Servicing Human Resources Office (SHRO) will:

1. Ensure that, if requested, a reasonable accommodation will be considered in each instance of medical disqualification or an appeal request by an employee, if the initial disqualification is the result of disability medical condition, in compliance with Departmental policy in 373 DM 15 (Reasonable Accommodation for Individuals with Disabilities).
2. Consider other agency positions, locations, or alternatives for placement of the employee. All options will be considered, and those that provide an acceptable outcome in terms of medical risk management and needs of the agency will be forwarded to the appropriate managers for consideration.

J. Employee/Applicant

The employee/applicant must:

1. Meet established deadlines as set forth in RM-57A.
2. Provide complete and accurate medical information to the examining and reviewing physicians and disclose any prior health issues or treatments, including mental health issues or treatment.
3. Report any new diagnoses of medical conditions, or changes, threshold shifts or deterioration of medical conditions to the MSPM within 14 days of notification to their supervisor.
4. Not withhold, falsify, distort, or misrepresent relevant medical (including mental health) information. Any such conduct may result in a denial of a waiver and/or disciplinary or criminal action.
5. Comply with mandatory examinations in accordance with this Order and RM-57A.

4. EMPLOYEE APPEALS

Failure to meet a properly established medical standard or physical requirement means that the employee is not qualified for the position unless a waiver or reasonable accommodation is requested and approved, as outlined in 373 DM 15 (Reasonable Accommodation for Individuals with Disabilities). The two Service levels of appeal for these requests are the WRP and the Board.

A. Waiver Review Panel

The WRP will be a first level of appeal for employees with specific waiver requests, with or without reasonable accommodation, and will be composed of three voting members and one non-voting member. Representation will be as follows:

- MSPM or designee (serves as chair; non-voting),
- Human Resources representative (voting),
- Law Enforcement, Security, and Emergency Services representative (voting), and
- Visitor and Resource Protection or Park Official (voting).

The MRO may be present for the WRP as an advisor, but not as a voting member. If the waiver is granted by the WRP, then the employee is considered medically qualified. If the request is denied by the WRP, then the employee may appeal to a second and final Service level of appeal, to the Board.

B. Medical Review Board

The Board will be composed of five voting members (or their designees) and three non-voting members. Representation will be as follows:

- Chief, Division of Employee and Labor Relations (chairperson);
- Chief, Risk Management Division (voting member);
- Chief, of the arduous duty discipline of the employee (voting member);
- Two senior field representatives (voting members appointed by the chairperson);
- MRO (non-voting); and
- MSPM (non-voting); and
- A representative from the Office of the Solicitor (non-voting).

If the Board grants the waiver request, the employee is considered medically qualified. If the Board denies the request, then the employee remains not medically qualified and this is the final Service determination. In accordance with 370 DM 771.1.7R (Administrative Grievance Procedures), this disqualification determination is not subject to the administrative grievance procedure.

Also in accordance with 370 DM 771.1.7R (Administrative Grievance Procedures), an applicant cannot appeal the medical standards disqualification determinations, and cannot avail him/herself of the administrative grievance procedure.

No Authority for Attorneys' Fees. There is no right to have an attorney or other representative present at these proceedings. In the event, however, that the employee requests and is granted the ability to have an attorney present, there is no authority for reimbursement of attorneys' fees.

5. CONFIDENTIALITY

It is Department of the Interior policy to protect its deliberative process in order to assure the free flow of ideas and candid discussion of alternatives, which are essential to its efficient operation. Therefore, all deliberations and any documents produced from the deliberations of the Board, with the exception of any final decision issued by the Board, are to be kept confidential and may not be disclosed without an order from a Federal court of competent jurisdiction.

Attorneys in the Office of the Solicitor may assert the deliberative process privilege without obtaining prior permission from the NPS.

-----*End of Director's Order*-----