

The request must be submitted while the fire is burning uncontrolled and threatens such destruction as would constitute a major disaster. The request must be submitted to the Regional Administrator and should address the relevant criteria listed in § 204.21, with supporting documentation that contains factual data and professional estimates on the fire or fire complex. To ensure that we can process a State's request for a fire management assistance declaration as expeditiously as possible, the State should transmit the request by telephone, promptly followed by written documentation (FEMA Form 90-58).

§ 204.23 Processing a request for a fire management assistance declaration.

(a) In processing a State's request for a fire management assistance declaration, the Regional Administrator, in coordination with the Principal Advisor, will verify the information submitted in the State's request.

(b) The Principal Advisor, at the request of the Regional Administrator, is responsible for providing FEMA a technical assessment of the fire or fire complex for which the State is requesting a fire management assistance declaration. The Principal Advisor may consult with State agencies, usually emergency management or forestry, as well as the Incident Commander, in order to provide FEMA with an accurate assessment.

[75 FR 50715, Aug. 17, 2010]

§ 204.24 Determination on request for a fire management assistance declaration.

The Administrator will review all information submitted in the State's request along with the Principal Advisor's assessment and render a determination. The determination will be based on the conditions of the fire or fire complex existing at the time of the State's request. When possible, the Administrator will evaluate the request and make a determination within several hours. Once the Administrator renders a determination, FEMA will promptly notify the State of the determination.

[75 FR 50715, Aug. 17, 2010]

§ 204.25 FEMA-State agreement for fire management assistance grant program.

(a) After a State's request for a fire management assistance declaration has been approved, the Governor and Regional Administrator will enter into a standing FEMA-State Agreement (the Agreement) for the declared fire and for future declared fires in that calendar year. The State must have a signed and up-to-date FEMA-State Agreement before receiving Federal funding for fire management assistance grants. FEMA will provide no funding absent a signed and up-to-date Agreement. An Indian tribal government serving as Grantee, must sign a FEMA-Tribal Agreement, modeled upon the FEMA-State Agreement.

(b) The Agreement states the understandings, commitments, and conditions under which we will provide Federal assistance, including the cost share provision and articles of agreement necessary for the administration of grants approved under fire management assistance declarations. The Agreement must also identify the State legislative authority for fire-fighting, as well as the State's compliance with the laws, regulations, and other provisions applicable to the Fire Management Assistance Grant Program.

(c) For each subsequently declared fire within the calendar year, the parties must add a properly executed amendment, which defines the incident period and contains the official declaration number. Other amendments modifying the standing Agreement may be added throughout the year to reflect changes in the program or signatory parties.

§ 204.26 Appeal of fire management assistance declaration denial.

(a) *Submitting an appeal.* When a State's request for a fire management assistance declaration is denied, the Governor or GAR may appeal the decision in writing within 30 days after the date of the letter denying the request. The State should submit this one-time request for reconsideration in writing, with appropriate additional information to the Administrator through the

Regional Administrator. The Administrator will reevaluate the State's request and notify the State of the final determination within 90 days of receipt of the appeal or the receipt of additional requested information.

(b) *Requesting a time-extension.* The Administrator may extend the 30-day period for filing an appeal, provided that the Governor or the GAR submits a written

(c) *Request for such an extension within the 30-day period.* The Administrator will evaluate the need for an extension based on the reasons cited in the request and either approve or deny the request for an extension.

[75 FR 50715, Aug. 17, 2010]

§§ 204.27–204.40 [Reserved]

Subpart C—Eligibility

§ 204.41 Applicant eligibility.

(a) The following entities are eligible to apply through a State Grantee for a subgrant under an approved fire management assistance grant:

- (1) State agencies;
- (2) Local governments; and
- (3) Indian tribal governments.

(b) Entities that are not eligible to apply for a subgrant as identified in (a), such as privately owned entities and volunteer firefighting organizations, may be reimbursed through a contract or compact with an eligible applicant for eligible costs associated with the fire or fire complex.

(c) Eligibility is contingent upon a finding that the Incident Commander or comparable State official requested the applying entity's resources.

(d) The activities performed must be the legal responsibility of the applying entity, required as the result of the declared fire, and located within the designated area.

§ 204.42 Eligible costs.

(a) *General.* (1) All eligible work and related costs must be associated with the incident period of a declared fire.

(2) Before obligating Federal funds the Regional Administrator must review and approve the initial grant application, along with Project Worksheets submitted with the application

and any subsequent amendments to the application.

(3) Grantees will award Federal funds to subgrantees under State law and procedure and complying with 44 CFR part 13.

(b) *Equipment and supplies.* Eligible costs include:

(1) Personal comfort and safety items normally provided by the State under field conditions for firefighter health and safety, including:

(2) Firefighting supplies, tools, materials, expended or lost, to the extent not covered by reasonable insurance, will be replaced with comparable items.

(3) Operation and maintenance costs of publicly owned, contracted, rented, or volunteer firefighting department equipment used in eligible firefighting activities to the extent any of these costs are not included in applicable equipment rates.

(4) Use of U.S. Government-owned equipment based on reasonable costs as billed by the Federal agency and paid by the State. (Only direct costs for use of Federal Excess Personal Property (FEPP) vehicles and equipment on loan to State Forestry and local cooperators may be eligible.)

(5) Repair of equipment damaged in firefighting activities to the extent not covered by reasonable insurance. We will use the lowest applicable equipment rates, or other rates that we determine, to calculate the eligible cost of repairs.

(6) Replacement of equipment lost or destroyed in firefighting activities, to the extent not covered by reasonable insurance, will be replaced with comparable equipment.

(c) *Labor costs.* Eligible costs include:

(1) Overtime for permanent or re-assigned State and local employees.

(2) Regular time and overtime for temporary and contract employees hired to perform fire-related activities.

(d) *Travel and per diem costs.* Eligible costs include:

(1) Travel and per diem of employees who are providing services directly associated with eligible fire-related activities may be eligible.

(2) Provision of field camps and meals when made available in place of per diem;