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Fire Management Assistance Grants: Frequently Asked Questions

Updated August 29, 2017

Congressional Research Service
https://crsreports.congress.gov
R43738

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, hereinafter the Stafford Act) authorizes the President to "declare" a Fire Management Assistance Grant (FMAG). In the interest of saving time, the authority to make the declaration has been delegated to the Federal Emergency Management Agency's (FEMA) Regional Administrators. Once issued, the FMAG declaration authorizes various forms of federal fire suppression assistance such as the provision of equipment, personnel, and grants to state, local, and tribal governments for the control, management, and mitigation of any fire on certain public or private forest land or grassland that might become a major disaster. This federal assistance requires a cost-sharing component such that state, local, and tribal governments are responsible for 25% of the expenses.

The current FMAG system was established by regulation in October of 2001. Prior to that time, the program was known as the Fire Suppression Assistance Program. The program, however, was administered in a similar fashion. Then, as now, the FEMA Regional Administrators worked with the requesting state, the "Principal Advisor," as well as FEMA leadership prior to the announcement of Stafford Act assistance under Section 420.

This report answers frequently asked questions about FMAGs. This report will be updated as events warrant.

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Introduction

Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, hereinafter the Stafford Act)[1] authorizes the President to "declare" a Fire Management Assistance Grant (FMAG). These grants provide federal assistance for fire suppression activities. This authority has been delegated to the Federal Emergency Management Agency's (FEMA) Regional Administrators.[2] Once issued, the FMAG declaration authorizes various forms of federal assistance such as the provision of equipment, personnel, and grants to state, local, and tribal governments for the control, management, and mitigation of any fire on certain public or private forest land or grassland that might become a major disaster.[3] This federal assistance requires a cost-sharing component such that state, local, and tribal governments are responsible for 25% of the expenses.

The current FMAG system was established by regulation in October of 2001.[4] Prior to that time, the program was known as the Fire Suppression Assistance Program. The program, however, was administered in a similar fashion. Then, as now, the FEMA Regional Administrators worked with the requesting state, the "Principal Advisor," as well as FEMA leadership prior to the announcement of Stafford Act assistance under Section 420.

Declaration Process

How are FMAGs Requested?

FMAGs can be requested by a state when the governor determines that a fire is burning out of control and threatens to become a major disaster. At that point, a request for assistance can be submitted to FEMA. Typically, requests are submitted to the FEMA Regional Administrator. Requests can be submitted any time—day or night—and can be submitted verbally by telephone to expedite the process. Telephone requests must be followed by written confirmation within 14 days of the phone request.[5]

Can a Tribal Leader Request an FMAG Declaration?

Under the Sandy Recovery Improvement Act of 2013 (SRIA, Division B of P.L. 113-2), tribes are equivalent to states in their ability to request a major disaster or an emergency declaration from the President.[6] During the pilot phase of direct tribal disaster declarations implementation, FEMA

[1] 42 U.S.C. §5121 et seq. For further analysis on the Stafford Act see CRS Report R43784, *FEMA's Disaster Declaration Process: A Primer*, by Bruce R. Lindsay.

[2] 44 C.F.R. §204.24. There are ten FEMA regions in the United States and its territories. Each region is headed by a FEMA Administrator who oversees all policy, managerial, resource, and administrative actions that affect the region. The FEMA Administrator is also responsible for ensuring that policies, programs, and administrative and management guidance are implemented in a manner consistent with FEMA's overall goals.

[3] P.L. 93-288, codified at 42 U.S.C. §5187(a).

[4] 44 C.F.R. §152.

[5] 44 C.F.R. §206.392. See also Federal Emergency Management Agency, *Fire Management Assistance Grant Program Guide*, FEMA P-954, February 2014, p. 10, at http://www.fema.gov/media-library-data/1394820975537-a279bff2a4a300676b870154acec922b/FMAG%20Guide%20Feb%202014_508.pdf.

[6] Section 1110 of the Sandy Recovery Improvement Act of 2013 amends Sections 401 and 501 of the Stafford Act which contain the procedures for requesting types of disaster declarations. Previously, tribal groups were treated as

will evaluate the FMAG Program and determine if any changes are needed to FMAG declarations in this respect.[7]

Note that tribal land holdings are largely federal land and, therefore, receive fire suppression support through the National Interagency Fire Center (NIFC). The NIFC supports interagency "wildland" firefighting efforts on federal lands by the U.S. Forest Service, National Weather Service, National Park Service, Bureau of Indian Affairs (BIA), U.S. Fish and Wildlife Service and FEMA's U.S. Fire Administration.[8]

Unlike FMAGs, such support generally does not require tribes to reimburse firefighting costs (FMAGs require the state to pay a 25% cost-share). In addition, tribes with their own fire suppression resources may receive reimbursement from BIA for their costs related to fire suppression on tribal lands.[9]

What Information Needs to Be Included in the FMAG Request?

The FMAG request should include data and cost estimates to support the request. The information should also include the size of the fire(s) in acres or square miles, the population of the community (or communities) threatened, the number of persons evacuated (if applicable), weather conditions, and the degree to which state and local resources are committed to this fire and other fires in federal, state, and/or local jurisdictions. The verbal request must be followed up with a completed "Request for Fire Management Assistance Declaration" (FEMA form 078-0-1) and the "Principal Advisor's Report" (FEMA form 078-0-2).[10]

How Is FMAG Assistance Determined?

The following criteria are used to evaluate wildfires and make a determination whether to issue an FMAG:

- The threat to lives and property including critical facilities, infrastructures, and watershed areas;
- the availability of state and local fire resources;
- high fire danger conditions based on nationally accepted indices such as the National Fire Danger Ratings System; and
- the potential economic impacts of the fire.

In addition, FEMA uses two types of fire cost thresholds to help determine if a state or tribal nation is eligible for fire assistance: (1) individual thresholds for a single fire, and (2) cumulative thresholds for multiple fires. Cumulative thresholds are applied to multiples fires burning

local governments and thus not permitted to directly request declarations from the federal government. As with local governments, the tribes were dependent on a request being made by the governor of the state where their territory is located.

[7] DHS/FEMA, *Tribal Declarations Pilot Guidance, First Draft,* April 2014. http://www.fema.gov/media-library-data/1396364830332-2fb965ca421ca78de333ed02c0b5fa47/First+Draft+Tribal+Declarations+Pilot+Guidance.pdf. Under this phase guidance is developed eventually leading into the regulatory process.

[8] For additional information, see http://www.nifc.gov/index.html.

[9] Information provided by FEMA's Office of Congressional Affairs, April 24, 2014.

[10] Declaration forms can be located at http://www.fema.gov/media-library/assets/documents/26237?id=5789.

simultaneously, or the accumulation of multiple fires in a single fire season. Threshold amounts vary by state (see **Table 1** for selected examples).

Individual Fire Threshold

The formula for the individual fire threshold is the state population multiplied by 5%, which is then multiplied by $1.43.[11] In general, if that amount exceeds the state's individual fire threshold, the state is eligible for federal assistance.

For example, the state of Pennsylvania's population, according to the most recent decennial census, is 12,702,379. The individual fire threshold formula for the state is: [12,702,379 x 5% x $1.43 = $908,220]. Therefore, the state of Pennsylvania would meet or exceed the individual fire threshold if it had a wildfire costing $908,220 or more in damages.

Cumulative Thresholds

The formula for the cumulative fire threshold for a given state is one of two amounts—$500,000 *or* the amount of that state's individual fire threshold multiplied by three, whichever is greater. Returning to the Pennsylvania example, the sum of three individual fire thresholds equals $2,724,660. Since that amount is larger than $500,000, cumulative fire damages in Pennsylvania must meet or exceed $2,724,660 to be eligible for assistance. In contrast, the individual fire threshold for Alaska is $100,000, but the cumulative threshold is $500,000, not the sum of three individual fire thresholds ($300,000).

Table 1. Selected Examples of CY2017 Individual and Cumulative Fire Thresholds by State

CY2017 Individual and Cumulative Fire Thresholds by State

State	Individual Threshold	Cumulative Threshold
Alaska	$100,000	$500,000
California	$2,663,658	$7,990,974
Pennsylvania	$908,220	$2,724,660
Texas	$1,797,908	$5,393,723
West Virginia	$132,489	$500,000

Source: FEMA, "CY2017 Fire Cost Threshold." Obtained through correspondence with FEMA Congressional Affairs. Alaska, Pennsylvania, and West Virginia were selected because they are referenced in the text to illustrate how the individual and cumulative fire thresholds are calculated and applied. California and Texas were selected because they are the two states with the highest frequency of FMAG declarations from CY1970-CY2016, with 166 and 236, respectively.

Can Denials for FMAG Assistance Be Appealed?

If FEMA denies the request for assistance, the state has one opportunity to appeal the denial. The appeal must be submitted in writing to the Regional Administrator no later than 30 days from the date of the denial letter. The appeal should contain any additional information that strengthens the original request for assistance. The Regional Administrator will review the appeal, prepare a recommendation, and forward the appeal package to the FEMA Headquarters Office. The FEMA

[11] The formula is [(population) x .05 x $1.43]. The dollar amount is periodically adjusted for inflation by FEMA.

Headquarters Office will notify the state of its determination in writing within 90 days of receipt of the appeal (or receipt of additional requested information).

The state may request a time extension to submit the appeal. The request for an extension must be submitted in writing to the Regional Administrator no later than 30 days from the date of the denial letter. The request for an extension must include a justification for the need for an extension. The FEMA Headquarters Office will notify the state in writing whether the extension request is granted or denied.

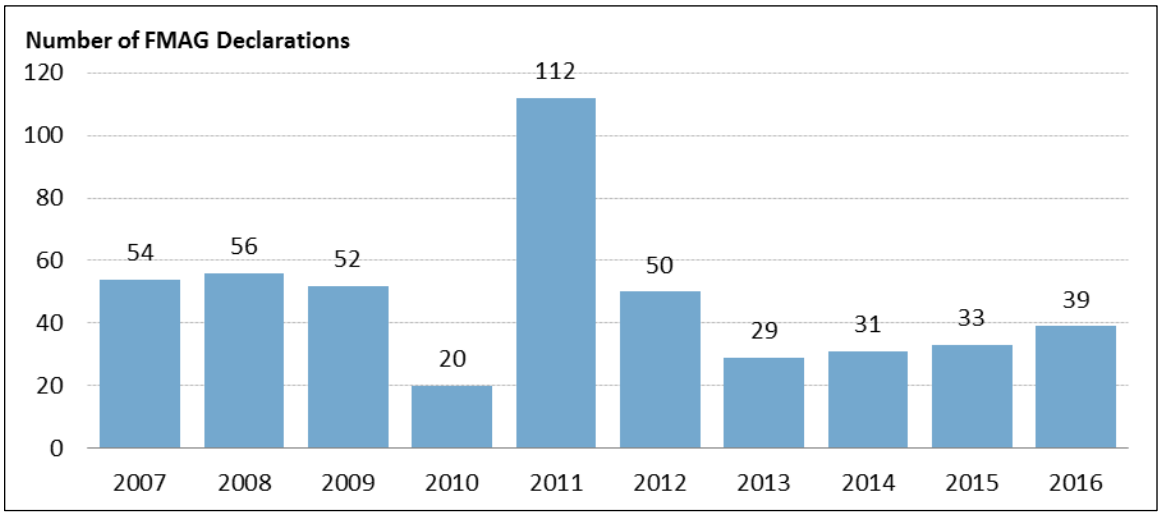
Does an FMAG Exclude the Possibility of an Emergency or Major Disaster Declaration Under the Stafford Act?

No, an emergency or major disaster can be declared after an FMAG declaration has been issued. However, the emergency or major disaster declaration must be initiated by a separate request for assistance by the state or tribal government.

How Many FMAGs Are Declared Each Year?

The average number of FMAGs declared each year from FY2007 to FY2016 was 48. As shown in **Figure 1** the highest number of FMAGs declared in one year was 112 in 2011. This surpassed the previous high of 56 FMAGs declared in 2008.

Figure 1. FMAG Declarations FY2007-FY2016



Source: CRS analysis based on data from U.S. Department of Homeland Security, Federal Emergency Management Agency, *Disaster Declarations,* available at https://www.fema.gov/disasters.

Funding

How Are FMAGs Funded?

FMAGs are funded through FEMA's Disaster Relief Fund (DRF), the main account FEMA uses to provide disaster assistance.[12] The DRF is a no-year account—unused funds from the previous fiscal year are carried over to the next fiscal year.

Funds in the DRF fall into two categories. The first category is for disaster relief costs associated with major disasters under the Stafford Act. This category reflects the impact of the Budget Control Act (P.L. 112-25, BCA), which allows appropriations to cover the costs incurred as a result of major disasters to be paid through an "allowable adjustment" to the discretionary spending limits.[13] The second category is colloquially known as "base funding." Base funding includes activities not tied to major disasters under the Stafford Act. Base funding is scored as discretionary spending that counts against the discretionary spending limits. FMAGs are funded through the DRF's base category.

What Percentage of DRF Expenditures Are Provided for FMAGs?

Expenditures for FMAGs are relatively low compared to funding for major disasters, emergencies, and surge activities.[14] From FY2006 to FY2015, total obligations from the DRF were $57.0 billion. Of this total, only $741.8 million (1.3%) was for fire suppression activities.[15] Even for the single year of FY2011, in which obligations for FMAGs reached a historic high of $114.0 million, this amount only accounted for 1.5% of total DRF obligations. **Figure 2** shows total obligations for the period FY2006-FY2015 for major disasters, emergencies, FMAGs, and surge activities.[16]

[12] For more information on the DRF see CRS Report R43537, *FEMA's Disaster Relief Fund: Overview and Selected Issues*, by Bruce R. Lindsay.

[13] For more information on the BCA and disaster relief see CRS Report R42352, *An Examination of Federal Disaster Relief Under the Budget Control Act*, by Bruce R. Lindsay, William L. Painter, and Francis X. McCarthy.

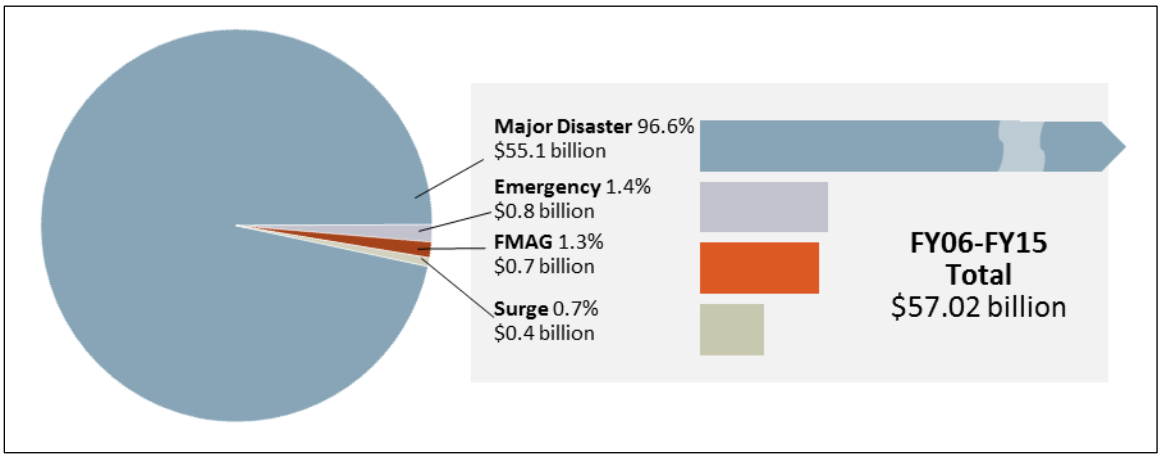
[14] Under the Stafford Act, a major disaster declaration triggers assistance to state and local governments and certain nonprofit organizations for the repair or restoration of public infrastructure, such as roads and buildings. A major disaster declaration may also include additional programs, such as temporary housing, disaster unemployment assistance and crisis counseling, and other recovery programs, such as community disaster loans. Emergency declarations authorize activities that can help states and communities carry out essential services and activities that might reduce the threat of future damage. Emergency declarations, however, do not provide assistance for repairs and replacement of public infrastructure or nonprofit facilities. Surge funding includes funding for the execution of pre-declaration, preliminary damage assessments and for activities necessary to prepare for, and be positioned for, an incident for which a declaration under the Stafford act is likely imminent.

[15] Fire suppression obligations include funding for infrastructure, mission assignments, and associated FEMA administration costs.

[16] Surge activities represent expenditures by FEMA prior to a Presidential declaration which may then be charged to the DRF. This is spending engaged in by FEMA when there is a reasonable expectation that a declaration is imminent.

Figure 2. DRF Obligations By Type

FY2006-FY2015



Source: CRS analysis of FEMA DRF obligations data as of December 2015.

Note: Since December 2015, FEMA has not provided CRS with a complete DRF dataset for analysis.

What Is the Average FMAG Amount?

As demonstrated in **Figure 1**, from FY2007 to FY2016, 476 FMAGS were declared. Using the total obligations of $741.8 million during that time, the average obligation per FMAG was $1.6 million. However, there is a high level of variation for the total obligations associated with each declaration—some wildfires exceeded $20 million in total costs. As a result, the number of FMAG declarations in a given year is not an accurate predictor of total obligations for FMAGs from the DRF.

What Are the Budget Implications of FMAGs?

The budget implications of FMAGs are difficult to ascertain because on the one hand, an increase in FMAG declarations leads to more federal dollars being spent on wildfires. On the other hand, FMAGs are designed to prevent fires from becoming major disasters.[17] It could therefore be argued that even though the cost for FMAG declarations may have increased, FMAGs may actually save federal dollars by reducing the need for a major disaster declaration, thereby decreasing spending on disaster assistance programs overall.

Can FMAGs Still Be Issued If the DRF Balance Is Low?

The decision to issue a FMAG declaration is not contingent on the DRF balance. Similarly, FMAGs do not reduce the amount of funding available for major disasters. When the DRF balance was low in the past, FEMA used its "immediate needs funding" (INF) policy until supplemental appropriations were passed to replenish the DRF. Under INF, long-term projects (such as mitigation work) are put on hold and only activities deemed urgent are funded. It appears likely that FMAGs would fall into the category of events with an "urgent" need. Under the INF

[17] A major disaster declaration is made as a result of the disaster or catastrophic event and constitutes a broader authority that helps states and local communities, as well as families and individuals, recover from the damage caused by the event.

policy, FEMA also delays interagency reimbursements, and recovers funds from previous years in order to stretch its available funds.

What Are the Cost-Share Requirements for FMAGs?

As with many other Stafford Act disaster assistance grant programs (Public Assistance, Hazard Mitigation Grant assistance, Other Needs Assistance) the cost-share for FMAGs is based on a federal share of 75% of eligible expenses. The grantee (the State) and sub-grantees (local communities) assume the remaining 25% of eligible costs.[18]

Does FEMA Advance Funds to States or Reimburse States for Completed Work?

Under the FMAG process, FEMA reimburses grantees for eligible activities they have undertaken. The state application for grant funds must be submitted within 90 days after the FMAG is granted. That time frame permits the state to gather all information and supporting data on potentially eligible spending to include in their grant application package. The package must also stipulate that the fire cost threshold was met.[19] Following submission of the grant application FEMA has 45 days to approve or deny the application.[20]

FMAG Assistance

What Types of Assistance Are Provided Under an FMAG Declaration?

FMAG assistance is similar in some basic respects to other FEMA assistance. For example, FMAGs will not replicate or displace the work of other federal agencies, nor will FEMA pay straight time salaries for public safety forces, though it will reimburse overtime expenses for the event. Other eligible expenses can include:

- Costs for equipment and supplies (less insurance proceeds);
- Costs for mobilization and demobilization;
- Costs for emergency work (evacuations and sheltering, police barricading and traffic control, arson investigation);
- Costs for pre-positioning federal, out-of-state, and international resources for up to 21 days when approved by the FEMA Regional Administrator;
- Costs for personal comfort and safety items for firefighter health and safety;
- Costs for field camps and meals in lieu of per diem; and/or

[18] While most FEMA assistance is cost-shared on a 75/25 basis a significant exception is the temporary housing program which is 100% federal funding.

[19] Other agreements that must be in place include an approved State Administrative Plan, a FEMA-State Agreement for the incident and that the state has an approved State Mitigation Plan. While these are important steps they are also part of the ongoing, operational relationship between the state and the FEMA regional office and have likely been accomplished or can be accomplished or revised during the nine-month time frame.

[20] DHS/FEMA, *Fire Management Assistance Grant Program,* Intergovernmental Webinar Series, June 26, 2014.

- Costs for the mitigation, management, and control of declared fires burning on co-mingled federal land, when such costs are not reimbursable by another federal agency.[21]

Is Mitigation Funding Included in an FMAG Declaration?

FMAGs do not provide mitigation funding. However, legislation authorizing mitigation has been introduced in the past, for example, H.R. 1183 in the 115th Congress, and H.R. 1009, H.R. 1471, S. 1997, S. 3172 (among others) in the 114th Congress. Each of these bills would have created mitigation authority within the FMAG program.

Interaction with Other Federal Agencies

How Are FMAGs Different from Other Types of Federal Fire Assistance?

FEMA assistance through FMAGs is a direct relationship with the states to assist the state in fighting the fire on state lands. FMAGs are employed so a disaster declaration may not be necessary. The Forest Service and other federal agencies do provide other types of assistance related to wildfire management, such as post-fire recovery assistance, or assistance planning and mitigating the potential risk from future wildfires. Most of these programs provide financial and technical assistance to state partners.[22] In addition, other USDA agencies administer various other programs to provide disaster recovery assistance to nonfederal forest landowners, including the Emergency Forest Restoration Program and the Emergency Watershed Program.[23]

Can FMAG Assistance Be Provided in Conjunction with Assistance from the Forest Service, or Is It Considered a Duplication of Benefits?

This depends on the type of assistance being provided by the Forest Service. FMAG assistance is not generally available in conjunction with emergency suppression assistance from the Forest Service, or any other federal agency engaged in suppression operations. FMAGs provide assistance for suppression operations on nonfederal lands; whereas suppression operations on federal lands are the responsibility of the federal agency with jurisdiction. Limited exceptions may occur for declared fires on lands which the ownership is comingled federal and nonfederal, and the costs incurred by the eligible entity are not entitled to any other type of federal reimbursement.[24] However, FMAGs may be provided in conjunction with other Forest Service assistance programs, such as any technical and financial assistance provided through the agency's state and volunteer fire assistance programs or state and private forestry office.

[21] DHS/FEMA, Fire Management Assistance Grant, *Fact Sheet*, March, 2014.

[22] For more information, see CRS Report RL31065, *Forestry Assistance Programs*, by Katie Hoover.

[23] For more information see CRS Report R42854, *Emergency Assistance for Agricultural Land Rehabilitation*, by Megan Stubbs.

[24] 44 C.F.R. §204.42(i).

FMAG and other federal assistance may potentially occur in conjunction when there is a cooperative agreement between federal, state, and other governmental or tribal partners to coordinate emergency wildfire protection and response activities.[25] The cooperative agreement often delineates different geographic areas where the state government is responsible for initial suppression operations, regardless of land ownership, and vice versa, where the federal government may be responsible for providing suppression operations in lands under nonfederal ownership. The cooperative agreements (sometimes referred to as "fire compacts") specify how costs are to be apportioned amongst the partners, including provisions allowing for reimbursement, in accordance with applicable federal and state statutes. In the circumstance where a state (or other eligible entity) conducted suppression operations on federal land and the costs were not reimbursable, an FMAG may potentially be applied for and used to cover eligible costs.

Do FMAGs Assist with Fires on Federal Lands?

No, most fires that begin on federal land are the responsibility of the federal agency that owns or manages the land, and are not eligible to receive FMAG assistance.[26] There are some exceptions, however. For example, FMAGs may be available to assist with declared fires that occur on co-mingled federal and nonfederal land, if the state has a responsibility for suppression activities under a cooperative agreement with the applicable federal agency, and those costs are not reimbursable under another federal statute.[27]

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Acknowledgments

Jaclyn Petruzzelli, Research Assistant, Government and Finance Division, assisted with compiling data for this report; Amber Wilhelm, Visual Information Specialist, Publishing and Editorial Resources Section, assisted with figures in this report; Daniel Richardson, former Research Assistant, Government and Finance Division, assisted with compiling data for previous versions of this report.

Disclaimer

[25] For an example of a federal-state fire compact, see the California Master Cooperative Wildland Fire Management and Stafford Act Response Agreement, available at http://www.fs.usda.gov/detail/r5/fire-aviation/?cid=stelprdb537432. For an example of a federal, state, and international fire compact, see the Northeast Forest Fire Protection Compact, available at http://www.nffpc.org.

[26] 44 C.F.R. §204.43(e). For more information, see CRS Report R44082, *Wildfire Suppression Spending: Background, Issues, and Legislation*.

[27] 44 C.F.R. §204.42(i).

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