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Fire Management Assistance Grants: Frequently Asked Questions

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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’s) 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, territorial, and tribal (SLTT) governments for the control, management, and mitigation of any fire on certain public or private forest or grassland that might become a major disaster. This federal assistance requires a cost-share, with state, local, and tribal governments responsible for 25% of the expenses.

This report answers frequently asked questions about FMAGs. It 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). An FMAG declaration makes FMAG grants available to provide federal assistance to supplement state, local, territorial, and tribal (SLTT) efforts for the control, management, and mitigation of any fire on certain public or private forest land or grassland that might become a major disaster.² FEMA defines control, management, and mitigation as those activities undertaken, generally, during the incident period of a declared fire, to minimize the immediate adverse effects and to manage and control the fire.³

The current FMAG system was established by regulation in October 2001.⁴ These grants provide federal assistance for fire suppression activities. This authority has been delegated to the Federal Emergency Management Agency’s (FEMA’s) Regional Administrators.⁵ 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. This federal assistance requires a cost-share, with state, local, and tribal governments responsible for 25% of the expenses.

The Disaster Recovery Reform Act of 2018 (Division D of P.L. 115-254; hereinafter DRRRA) authorizes FEMA to provide Hazard Mitigation Grant Program (HMGP) Post Fire grants, under Section 404 of the Stafford Act, in any area that receives a FMAG declaration even if no presidential major disaster declaration was made.

This report discusses some frequently asked questions received by the Congressional Research Service on FMAGs. It addresses questions regarding how FMAG declarations are requested, how requests are evaluated using thresholds, and the types of assistance provided under an FMAG declaration.

Wildfire Jurisdiction

The federal government is responsible for wildfires that begin on federal and tribal lands; states are responsible for wildfires that begin on nonfederal lands (in some areas, local government may be responsible for initial wildfire response); and some tribes are responsible for wildfires that begin on tribal lands. For comingled land ownership, response efforts may be managed jointly across multiple federal, state, tribal, or local agencies.

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

³ Federal Emergency Management Agency, *Fire Management Assistance Grant Program and Policy Guide*, FEMA FP-104-21-0002, June 2021, p. 1, https://www.fema.gov/sites/default/files/documents/fema_fmaggpg_063121.pdf (hereinafter *FMAG PPG 2021*).

⁴ 44 C.F.R. §152. 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.

⁵ 44 C.F.R. §204.24. There are 10 FEMA regions in the United States and its territories. Each region is headed by a FEMA Regional Administrator who oversees all policy, managerial, resource, and administrative actions that affect the region. The FEMA Regional 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.

Declaration Process

How Are FMAGs Requested?

An FMAG declaration can be requested by a state when the governor determines that a fire under state jurisdiction is burning out of control and threatens to become a major disaster.⁶ 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 by telephone to expedite the process. Telephone requests must be followed by written confirmation within 14 days of the phone request.⁷

Can a Tribal Leader Request an FMAG Declaration?

Pursuant to 44 C.F.R. §204.22, a governor or a governor’s authorized representative are the only officials authorized to request FMAG declarations. Tribal governments⁸ are not authorized to make FMAG declaration requests at this time.⁹ After an FMAG declaration is approved, a tribal government may act as a recipient or as a subrecipient of an FMAG grant under the state.¹⁰ A tribal government acting as a recipient assumes all responsibilities of a “state” for the purposes of administering the grant.¹¹

What Information Needs to Be Included in the FMAG Request?

The FMAG request should include cost estimates to support the request as well as information about the fire including the size of the fire(s) in acres or square miles; the name, location, and population of the community (or communities) threatened; the number of primary and secondary residences and businesses threatened; the distance of the fire to the nearest communities; the number of persons evacuated (if applicable); the current and predicted 24-hour 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.¹² 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).¹³

⁶ For the remainder of this report, references to a state or states also applies to territories and the District of Columbia.

⁷ 44 C.F.R. §206.392. See also *FMAG PPG 2021*, pp. 4-5.

⁸ P.L. 113-2, §1110(c), 42 U.S.C. §5122, and 44 C.F.R. §204.3 define Indian tribal government to include any Indian or Alaska Native tribes, bands, nations, pueblos, villages, or communities recognized by the Secretary of Interior under the Federally Recognized Tribe List of 1994, 25 U.S.C. §479a.

⁹ *FMAG PPG 2021*, p. 4.

¹⁰ The recipient is the government to which a grant is awarded and which is responsible for the use of the funds provided. Generally, a state is the recipient of an FMAG. However, after a declaration a tribal government may choose to be a recipient or may act as a subgrantee under a state. A subrecipient is an applicant that is awarded a subgrant and is accountable to the recipient for the use of grant funding provided. See 44 C.F.R. §204.3.

¹¹ *FMAG PPG 2021*, p. 4.

¹² *FMAG PPG 2021*, pp. 5-6.

¹³ Declaration forms can be located at <https://www.fema.gov/assistance/public/fire-management-assistance>.

How Is FMAG Assistance Determined?

FEMA Regional Administrators use the following criteria to evaluate wildfires and make a determination whether to issue an FMAG. The four criteria below are considered in order of descending priority during the evaluation process of a threat of a fire or fire complex:¹⁴

1. the threat to lives and property including critical facilities, infrastructure, and watershed areas;
2. the availability of state and local firefighting resources;
3. high fire danger conditions based on nationally accepted indices such as the National Fire Danger Rating System;¹⁵ and
4. the potential economic impacts of the fire.¹⁶

In addition, FEMA uses fire cost thresholds to evaluate requests for FMAG declarations. There are two types of fire cost thresholds used 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 multiple fires burning simultaneously, or the accumulation of multiple fires in a single fire season. Threshold amounts vary by state (see **Table 1**). The individual fire cost threshold for a state is the greater of \$100,000 or five times the statewide per capita indicator,¹⁷ multiplied by the state population.¹⁸ Taking Pennsylvania as an example, generally, a single fire would need to meet or exceed \$1,150,739 in damages for Pennsylvania to be eligible for an FMAG declaration in CY2023.

Table 1. Selected Examples of CY2023 Individual and Cumulative Fire Thresholds by State

State	Individual Threshold	Cumulative Threshold
Alaska	\$100,000	\$500,000
California	\$3,499,133	\$10,497,398
Hawaii	\$128,791	\$500,000
Oregon	\$374,997	\$1,124,991
Pennsylvania	\$1,150,739	\$3,452,217
Texas	\$2,579,377	\$7,738,132
West Virginia	\$158,744	\$500,000

Source: FEMA, *CY2023 Fire Cost Thresholds*, provided by FEMA Congressional Affairs staff, August 15, 2023. The states were selected to illustrate how the individual and cumulative fire thresholds are calculated and applied.

¹⁴ *FMAG PPG 2021*, p. 5.

¹⁵ The National Fire Danger Rating System is a system that allows fire managers to estimate today’s and tomorrow’s fire danger for a given area. See Forest Service, *National Fire Danger Rating System*, <https://www.fs.usda.gov/detail/cibola/landmanagement/resourcemanagement/?cid=stelprdb5368839>.

¹⁶ *FMAG PPG 2021*, p. 5.

¹⁷ The FY2023 per capita indicator is \$1.77. See FEMA, *Per Capita Impact Indicator and Project Thresholds*, <https://www.fema.gov/assistance/public/tools-resources/per-capita-impact-indicator>.

¹⁸ The fire cost thresholds for each state are adjusted annually for inflation using the Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor. *FMAG PPG 2021*, p. 32, and U.S. Bureau of Labor Statistics, *Consumer Price Index*, <https://www.bls.gov/cpi/>.

In contrast, 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 \$3,452,217. Since that amount is larger than \$500,000, cumulative fire damages in Pennsylvania must meet or exceed \$3,452,217 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).

Can Denials for FMAG Assistance Be Appealed?

If FEMA denies the request for an FMAG declaration, the state has one opportunity to appeal. 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 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).¹⁹

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?

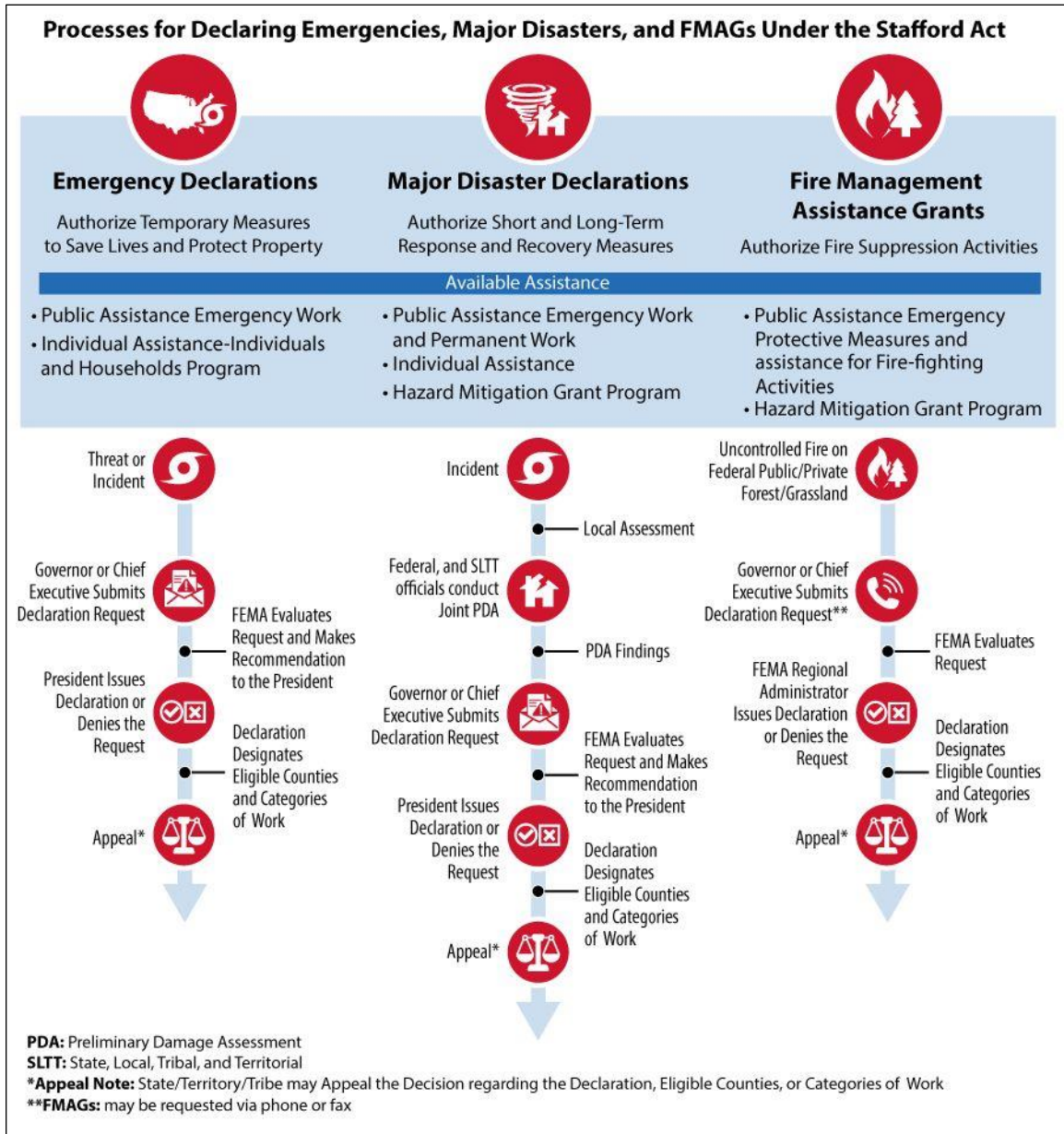
No, an emergency or major disaster can still be declared after an FMAG declaration has been issued. However, the emergency or major disaster declaration must be initiated by a separate request for assistance by the state or tribal government. **Figure 1** illustrates processes for disaster declarations.

If either an emergency or major disaster declaration is approved in addition to an FMAG declaration, eligible costs should be claimed under the most appropriate designation. In the case of a major disaster declaration for a fire that received an FMAG declaration, generally eligible costs should be claimed under the major disaster declaration so the state can maximize funding under the Hazard Mitigation Grant Program (HMGP).²⁰

¹⁹ *FMAG PPG 2021*, p. 10.

²⁰ *FMAG PPG 2021*, p. 14.

Figure I. Disaster Declaration Process



Source: CRS interpretation of 44 C.F.R. §§206.33, 206.35-206.40, 206.46 (for emergency and major disaster declarations), and 44 C.F.R. §§204.21-204.26 (for FMAGs).

Notes: An expedited major disaster declaration may be requested and the Joint Preliminary Damage Assessment requirement may be waived for “incidents of unusual severity and magnitude that do not require field damage assessments to determine the need for supplemental Federal assistance under the Act” (44 C.F.R. §206.33(d) and 44 C.F.R. §206.36(d)).

Funding

How Are FMAGs Funded?

FMAGs are funded through FEMA's Disaster Relief Fund (DRF), the main account FEMA uses to provide disaster assistance.²¹ 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.²² 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 funding category.

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. FMAGs would most likely fall into the category of events with an “urgent” need. Under the INF 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 subgrantees (local communities) assume the remaining 25% of eligible costs.²³

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 specific 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

²¹ For more information on the DRF, see CRS Report R45484, *The Disaster Relief Fund: Overview and Issues*, by William L. Painter.

²² For more information on the allowable adjustment, see CRS In Focus IF10720, *Calculation and Use of the Disaster Relief Allowable Adjustment*, by William L. Painter.

²³ For more information on Stafford Act cost shares, see CRS Report R47646, *Stafford Act Cost Shares: History, Trends, Analysis*, by Erica A. Lee.

must also stipulate that the fire cost threshold was met.²⁴ Following submission of the grant application, FEMA has 45 days to approve or deny the application.

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);
- mobilization and demobilization;
- emergency work (evacuations and sheltering, police barricading and traffic control, arson investigation);
- repositioning federal, out-of-state, and international resources for up to 21 days when approved by the FEMA Regional Administrator;
- personal comfort and safety items for firefighter health and safety;
- field camps and meals in lieu of per diem; and/or
- the mitigation, management, and control of declared fires burning on comingled federal land, when such costs are not reimbursable by another federal agency.

An FMAG declaration authorizes temporary forms of assistance to individuals and households including emergency sheltering and medical care, but does not authorize permanent forms of assistance to repair and rebuild homes. In addition, neither rental assistance nor other forms of assistance provided to individuals and households under FEMA's Individual Assistance program are made available after an FMAG declaration.²⁵

Is Mitigation Funding Included in an FMAG Declaration?

Until 2018, only major disaster declarations made statewide hazard mitigation grants available. DRRAs amended the Stafford Act to make Hazard Mitigation Grant Program (HMGP)²⁶ funding available after FMAG declarations as well. HMGP assistance includes measures that substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster, or any area affected by a fire for which assistance was provided under Section 420 of the Stafford Act. Under Section 404 of the Stafford Act as amended by DRRAs, HMGP Post Fire grants are provided to states and tribes on a sliding scale based on the

²⁴ Other agreements that must be in place include an approved State Administrative Plan, a FEMA-State Agreement for the incident, and an approved State or Tribal Hazard 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.

²⁵ For more information, see CRS Report R46014, *FEMA Individual Assistance Programs: An Overview*, by Elizabeth M. Webster.

²⁶ For more information, see CRS Report R46989, *FEMA Hazard Mitigation: A First Step Toward Climate Adaptation*, by Diane P. Horn.

percentage of funds spent for FMAG assistance. For states and federally recognized tribes with a FEMA-approved Standard State or Tribal Hazard Mitigation Plan, the formula provides for up to 15% of the first \$2 billion of estimated aggregate amounts of disaster assistance, up to 10% for amounts between \$2 billion and \$10 billion, and 7.5% for amounts between \$10 billion and \$35.333 billion.²⁷ States and federally recognized tribes with a FEMA-approved Enhanced State or Tribal Hazard Mitigation Plan will receive 20% of the estimated aggregate amounts of disaster assistance.²⁸

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 in wildfire response activities for fires which begin on lands under the state's jurisdiction. FMAGs are employed so a disaster declaration may not be necessary. The federal government provides other types of assistance related to wildfire management generally, such as postfire recovery assistance or assistance planning and mitigating the potential risk from future wildfires.²⁹

States and other entities may also enter into various cooperative agreements (e.g., mutual aid agreements, cooperative fire protection agreements, fire compacts) with federal agencies that have a fire protection responsibility.³⁰ These agencies most commonly include the Forest Service, within the Department of Agriculture, and the Bureau of Indian Affairs, Bureau of Land Management, U.S. Fish and Wildlife Service, and National Park Service, within the Department of the Interior (DOI).³¹ Each specific agreement outlines the terms and conditions for sharing resources during fire incidents and establishes cost reimbursement procedures, if necessary. Under some mutual aid agreements, for example, cost reimbursement may not be required for some emergency suppression services. Under cooperative fire protection agreements, the federal government may provide wildfire prevention, detection, and suppression services on a cost-reimbursement basis. The various types of cooperative agreements allow for a coordinated interagency response that deploys and mobilizes resources to areas of greatest need. Response activities are coordinated regionally through 10 Geographic Area Coordination Centers (GACCs) and nationally through the National Interagency Coordination Center (NICC).³²

²⁷ 42 U.S.C. §5170c(a).

²⁸ 44 C.F.R. §201.5.

²⁹ For more information, see CRS In Focus IF10732, *Federal Assistance for Wildfire Response and Recovery*, by Anne A. Riddle; CRS Report RS21212, *Agricultural Disaster Assistance*, by Megan Stubbs; and CRS Report R45219, *Forest Service Assistance Programs*, by Anne A. Riddle.

³⁰ 42 U.S.C. §1856.

³¹ The Secretary of Energy, Secretary of the Army, and Secretary of the Smithsonian Institution are also authorized to enter into fire protection agreements with other governmental entities (42 U.S.C. §1856a-1).

³² For more information, see <https://www.nifc.gov/nicc/index.htm>.

Can FMAG Assistance Be Provided in Conjunction with Other Types of Federal Assistance, or Is It Considered a Duplication of Benefits?

This depends on the type of assistance being provided by the federal government. FMAG assistance is not generally available in conjunction with emergency suppression assistance from the federal government. 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 in 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.³³

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.³⁴ 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 specify how costs are to be apportioned among 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.³⁵ There are some exceptions, however. For example, FMAGs may be available to assist with declared fires that occur in areas with a mix of 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.³⁶

³³ 44 C.F.R. §204.42(i).

³⁴ For an example of a federal-state fire compact, see the California Master Cooperative Wildland Fire Management and Stafford Act Response Agreement, available at https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd576218.pdf. For an example of a federal, state, and international fire compact, see the Northeast Forest Fire Protection Compact, available at <http://www.nffpc.org>.

³⁵ 44 C.F.R. §204.43(e). For more information, see CRS In Focus IF10732, *Federal Assistance for Wildfire Response and Recovery*, by Anne A. Riddle.

³⁶ 44 C.F.R. §204.42(i).

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