FEMA-STATE AGREEMENT FOR THE FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

STATE OF MONTANA
YEAR - 2009

This is the annual FEMA-State Agreement for the Fire Management Assistance Grant Program (the Agreement) under Section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5187 (the Stafford Act); in accordance with Title 44 of the Code of Federal Regulations (44 CFR) § 204.25. The State must have a signed and up-to-date FEMA-State Agreement before receiving Federal funding for grants under approved requests for Fire Management Assistance declarations. The Governor and Regional Administrator are entering into this Agreement for all Fire Management Assistance declarations approved pursuant to 44 CFR Part 204 throughout the calendar year as the parties incorporate by amendment into this Agreement.

1. Federal assistance will be made available, within the limits of funds available from Congressional Appropriations for such purposes, in accordance with Section 420 of the Stafford Act, Executive Orders 12148 and 12673, applicable regulations found in 44 CFR including Part 13 and Part 204 as amended, and applicable policy and guidance.

2. Pursuant to 44 CFR Part 204.22, the State agrees to be the Grantee for the Fire Management Assistance Grant Program, Section 420 of the Stafford Act. The State agrees to comply with the Stafford Act, 44 CFR, and other applicable Federal and State laws, regulations, executive orders, policy, and guidance. Either of two State agencies may serve as the Grantee; namely, the Department of Natural Resources & Conversation, Forestry Division, and the Department of Military Affairs, Disaster and Emergency Services Division. The State Administration Plan will identify the responsibilities of each agency. The Governor's Authorized Representative (GAR) and Alternate GARs are identified in Exhibit A. The Grantee is accountable for the use of the funds provided. All other State Agencies and political subdivisions applying for Federal assistance will be designated as a subgrantee.

3. The State hereby waives any consultation process under Executive Order 12372 and 44 CFR Part 4, for grants or other financial assistance under the Stafford Act for the Fire Management Assistance Grant Program.

4. The State legislative authority for firefighting and laws, regulations, and other provisions applicable to this program include Titles 76-13-104 and 7-33-2201, Montana Code Annotated.

5. Federal assistance may be provided only for eligible costs incurred in the mitigation, management and control of a declared fire that is identified in this Agreement, in accordance with 44 CFR Part 204.

6. The Regional Administrator in consultation with the Governor's Authorized Representative and the Principal Advisor will establish the incident period for a declared fire. If the incident period for a declared fire extends into the next calendar year, the fire cost threshold and the FEMA-State Agreement in effect for the calendar year in which the incident period for the declared fire begins will govern Federal assistance with respect to that fire.

7. The State must meet the individual or cumulative fire cost threshold pursuant to 44 CFR § 204.51(b) prior to FEMA's approval of the State's grant application (Standard Form 424, Request for Federal Assistance). The State must also have a current State Administrative Plan and a FEMA approved State Mitigation Plan (SMP) pursuant to 44 CFR §204.51(d) before FEMA approves the State's grant application. If the State does not have an approved SMP at the time the Amendment to FEMA-State Agreement for the Fire Management Assistance Grant Program (Exhibit E) is signed, the State will submit formally its approvable SMP for FEMA review and approval within 30 days of the date of the Amendment. If the State fails to do so, FEMA will deny the State's application for assistance under the declaration.

8. Federal funds may be provided under the Stafford Act for the Fire Management Assistance Grant Program on a 75 percent Federal/25percent non-Federal cost-sharing basis once the fire cost threshold is met.

9. The State agrees, on its behalf and on behalf of its political subdivisions and other recipients of Fire Management Assistance to cooperate with the Federal Government in seeking recovery of costs that are expended in the mitigation, management and control of a declared fire identified in this Agreement against any party or parties whose intentional acts or omissions may have caused or contributed to the damage or hardship for which Federal assistance is provided pursuant to the Fire Management Assistance Grant Program under Section 420 of the Stafford Act.

10. The State agrees, on its behalf and on behalf of its political subdivisions and other recipients of assistance under the Fire Management Assistance Grant Program, to take all reasonable steps to recover all costs that are expended in the mitigation, management or control of a declared fire identified in this Agreement from any party or parties whose negligence may have caused or contributed to the damage or hardship for which FEMA provides assistance. FEMA will treat such amounts as duplicated benefits available to the Grantee in accordance with 42 U.S.C. 5155 and 44 CFR § 204.62.

11. The Governor shall ensure, through the State agency responsible for regulation of the insurance industry, that insurance companies make full payment of eligible insurance benefits to recipients of Federal assistance. The State also shall take all responsible steps to ensure that recipients are aware of procedures for filing

insurance claims, and are informed of any State procedures instituted for assisting insured entities. Further, the State shall take all actions necessary and reasonable to ensure that all recipients of Federal assistance are aware of their responsibility to repay government assistance that is duplicated by insurance proceeds.

12. The State will certify that all costs reported on an applicant's Project Worksheet for work performed are in compliance with the terms and conditions in the FEMA State Agreement.

13. Amendments to this agreement shall be executed for each Fire Management Assistance declaration approved during the calendar year. The amendment will specify the incident period, official fire name, declaration number, and counties included in the fire declaration.

14. Attached and also made a part of this Agreement are:

a. Exhibit A, State officials authorized to execute certification and otherwise to act on behalf of the State; and

b. Exhibit B, Certification regarding Drug-Free Workplace requirements.

c. Exhibit C, Certification for Contracts, Grants, Loans, and Cooperative Agreements, New Restrictions on Lobbying.

d. Exhibit D, Disaster Grant Agreement Articles.

e. Exhibit E, Amendment to the FEMA-State Agreement for the Fire Management Assistance Grant Program

Agreed:

Brian Schweitzer, Governor
State of Montana

Date: 3/17/09

Douglas A. Gore, Acting Regional Administrator
DHS/FEMA – Region VIII

Date: 4/6/09

EXHIBIT A

STATE CERTIFICATION OFFICERS

1. The Governor hereby certifies that Robert A. Harrington is the Governor's Authorized Representative (GAR) empowered to execute on behalf of the State all necessary documents for the Fire Management Assistance Grant Program, including, submitting requests for fire management assistance declarations, applying for the initial grant award, approving and submitting subgrants and certification of claims to the Regional Administrator. John Monzie, Pam Okon, Ted Mead. Garry Williams, and Ken Mesch are the Alternate Governor's Authorized Representatives and they are similarly empowered. Their specimen signatures follow:

Robert A. Harrington, GAR

Dept. of Natural Resources & Conservation
Forestry Division/Missoula
State Agency

2-23-09
Date

John Monzie, Alternate GAR

Dept. of Natural Resources & Conservation
Forestry Division/Missoula
State Agency

02/17/09
Date

Pam Okon, Alternate GAR

Dept. of Natural Resources & Conservation
Forestry Division/Missoula
State Agency

2-17-09
Date

Ted Mead, Alternate GAR

Dept. of Natural Resources & Conservation
Forestry Division/Missoula
State Agency

2-18-09
Date

Garry Williams, Alternate GAR

Dept. of Natural Resources & Conservation
Forestry Division/Missoula
State Agency

3/3/09
Date

Ken Mesch, Alternate GAR

Department of Military Affairs
Disaster and Emergency Services Division
State Agency

3-16-09
Date

2. The Governor hereby certifies that Robert A. Harrington, John Monzie, Pam Okon, Ted Mead, Garry Williams, and Ken Mesch are the official of the State, authorized to execute compliance reports, carry out compliance reviews, and distribute informational material as required by FEMA to ensure that all recipients of Federal disaster assistance are in full compliance with FEMA nondiscrimination regulations (located at 44 CFR, Part 7).

3. The Governor hereby certifies that Robert A. Harrington, John Monzie, Pam Okon, Ted Mead, Garry Williams, and Ken Mesch are the official of the State who will execute compliance reports, carry out compliance reviews, and distribute information material as required by FEMA to ensure that all recipients of Federal disaster assistance are in compliance with the General Services Administration List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

EXHIBIT B

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 44 CFR Part 17, Subpart F. The regulations require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment. (See 44 CFR Part 17, Subpart C and Subpart D).

A. **The grantee certifies that it will or will continue to provide a drug-free workplace by:**

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about--
- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--
- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with this grant:

Place(s) of Performance:

Dept. of Natural Resources & Conservation
Division of Forestry
2705 Spurgin Road
Missoula, MT 59804

Dept. of Natural Resources & Conservation
Division of Forestry
Organization Name

Robert A. Harrington, GAR
Name and Title of Authorized Rep.

Signature

2-23-09
Date

Dept. of Military Affairs
Disaster & Emergency Services Div
P. O. Box 4789
Fort Harrison, MT 59636-4789

Dept. of Military Affairs
Disaster & Emergency Services Div
Organization Name

Ken Mesch, Alternate GAR
Name and Title of Authorized Rep.

Signature

3-16-09
Date

EXHIBIT C

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

This certification is required by the regulations implementing the New Restrictions on Lobbying, 44 CFR Part 18. The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Robert A. Harrington, GAR	Ken Mesch, Alternate GAR
Name and Title of Authorized Rep.	Name and Title of Authorized Rep.
Signature	Signature
2-23-09	3-16-09
Date	Date

EXHIBIT D

DISASTER GRANT AGREEMENT ARTICLES

ARTICLE I. The United States of America, through the Administrator, Federal Emergency Management Agency (FEMA) (herein referred to as "the Grantor") or his/her delegate, agrees to grant to the State Government, through its designated agency named on the first page of this Agreement (hereinafter referred to as "the Grantee") funds in the amount specified on the obligating document, to support the Fire Management Assistance Grant Program authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Section 5187 (the Stafford Act), and activated in the FEMA-State Agreement for Fire Management Assistance Grants and applicable amendments. The Grantee agrees to abide by the grant terms and conditions as set forth in this document, to comply with all provisions of the State Administrative Plan, and all conditions contained in the FEMA-State Agreement.

ARTICLE II. This agreement takes effect at the time the FEMA-State Agreement is executed and remains in effect for the calendar year for all approved Fire Management Assistance Grants. Refer to obligating documents for funding information.

ARTICLE III. As stated in Exhibit B, paragraph 2, the Grantee agrees to comply with all applicable laws and regulations. In particular, the following laws, regulations, and OMB circulars govern standard grant management practices and are incorporated into this agreement by reference. Due to the nature of grant administration following the approval of a Fire Management Assistance Grant, some variance from standard practice may be warranted upon determination by FEMA.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sections 5121-5206 (the Stafford Act).

Title 44 of the Code of Federal Regulations (44 CFR)

44 CFR	Part 13	Uniform administrative requirements for grants and cooperative agreements to state and local governments
44 CFR	Part 17	Government-wide debarment and suspension (nonprocurement) and government-wide requirements for drug-free workplace (grants)
44 CFR	Part 18	New restrictions on lobbying
44 CFR	Part 204	Disaster Assistance; Fire Management Assistance Grant Program

---

44 CFR Subchapter B – Insurance and Hazard Mitigation

44 CFR Subchapter C – Fire Prevention and Control

44 CFR Subchapter D – Disaster Assistance

44CFR Part 7 Nondiscrimination in Federally Assisted Programs

OMB Circular A-110 Uniform Administrative Requirements for Grants and Agreements with institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

OMB Circular A-102 Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments

OMB Circular A-87 Cost Principles for State and Local Governments

OMB Circular A-122 Cost Principles for Nonprofit Organizations

OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations

Assurances submitted with the SF 424, Application for Federal Assistance

31 CFR 205.6 Funding techniques – Cost Management Improvement Act

ARTICLE IV. The specific terms and conditions of this agreement are as follows:

1. No transfer of funds to agencies other than those identified in the approved grant agreement shall be made without prior approval by FEMA. Grantee shall be paid using the HHS Smartlink System, provided Grantee maintains and complies with procedures for minimizing the time between transfer of funds from the US Treasury and disbursement by the Grantee and Subgrantees. The Grantee commits itself to: 1) initiating cash drawdowns only when actually needed for its disbursement; 2) timely financial reporting per FEMA requirements using FEMA Form 20-10; and imposing the same standards of timing and amount upon any secondary recipient.

2. Grantee shall follow the cost sharing requirements per 44 CFR, Part 204, Section 204.61.

3. The Grantee shall transfer to FEMA the appropriate share, based on the Federal support percentage, of any refund, rebate, credit, amount derived from legal action, or other amounts arising from the performance of this agreement, along with any accrued interest, if any. The Grantee shall take necessary action to effect prompt collection of all monies due or which may become due and to cooperate with FEMA in any claim or suit in connection with amounts due.

4. The Grantee is free to copyright any original work developed in the course of or under the agreement. FEMA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Government purposes. Any publication resulting from work performed under this agreement shall include an acknowledgement of FEMA financial support and a statement that the publication does not necessarily reflect FEMA's views.

5. The Grantee shall submit final financial status reports using FEMA Form 20-10 within 90-days of the performance period expiration date to report all administrative costs incurred within the performance period.

6. The grant shall be completed within the time period prescribed in FEMA regulations and on the obligating documents. Written request for an extension will include information and documentation to support the amendment and a schedule for completion. No subsequent grant agreements, monetary increase amendments, or time extension amendments will be approved unless all overdue final financial or performance reports have been submitted by the Grantee to the appropriate Regional office.

7. The certifications signed by the State on the FEMA-State Agreement relating to maintenance of a Drug-Free workplace (44 CFR Part 17, Subpart F) and New Restrictions on Lobbying (44 CFR Part 18) apply to this grant agreement and are incorporated by reference.

EXHIBIT E

AMENDMENT TO
FEMA-STATE AGREEMENT FOR THE FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

This amends the FEMA-State Agreement for the Fire Management Assistance Grant Program under section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5187, in accordance with 44 CFR § 204.25.

On_____(date), FEMA declared ____(fire name and declaration number)____, in the State of ___(state), and the following counties _____ _____(insert counties)_____, based on the threat posed by the fire during _____(incident period)___.

(Include the following if the State does not have an approved SMP at the time of this Amendment]
Before the State's application will be approved and assistance provided, the State must have a FEMA approved State Mitigation Plan (SMP) in accordance with 44 CFR Part 201 and § 204.51(d). The State will submit formally its approvable SMP for FEMA review and approval within 30 days of the date of the Exhibit E Amendment to the FEMA State Agreement. If the State fails to do so, FEMA will deny the State's application for assistance under the declaration.

The State will adhere to the terms and conditions of the FEMA-State Agreement dated _____ for this declared fire.

Agreed:

_____	_____
Governor	Regional Administrator
Date:_____	Date:_____