



Hermit's Peak/Calf Canyon Claims Program and Policy Guide

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FEMA

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1. GENERAL

1.1 Historical Context

On April 6, 2022, the U.S. Forest Service (USFS) initiated the Las Dispensas-Gallinas prescribed burn on federal land in the Santa Fe National Forest in San Miguel County, New Mexico. That same day, the prescribed burn, known as the “Hermit's Peak Fire,” escaped the burn unit's boundaries and the USFS declared it as a wildfire, spreading to other federal and non-federal lands. On April 19, 2022, the Calf Canyon Fire, also in San Miguel County, New Mexico, began burning on federal land and was later identified as the result of a pile burn in January 2022 that remained dormant under the surface before reemerging.

The Hermit's Peak and Calf Canyon Fires merged on April 27, 2022, and both fires were reported as the Hermit's Peak Fire or the Hermit's Peak/Calf Canyon Fire (“fire”). By May 2, 2022, the fire had grown, causing evacuations in multiple villages and communities in San Miguel County and Mora County. At the request of New Mexico Governor Lujan Grisham, President Biden issued a major disaster declaration on May 4, 2022. The fire was 100 percent contained by August 21, 2022.

On September 30, 2022, President Biden signed the Hermit's Peak/Calf Canyon Fire Assistance Act (“Act”) into law as part of the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023, Public Law 117–180, 136 Stat. 2114 (2022). Congress passed the Act to compensate parties who suffered losses from the Hermit's Peak/Calf Canyon Fire.

1.2 The Claims Office Way and FEMA Core Values

The Claims Office has two principal goals that guide the way we deliver our mission: (1) provide full compensation available under the law as expeditiously as possible with the smallest burden placed on claimants, and (2) create a world class organization that meets the needs of New Mexicans impacted by wildfires and subsequent floods. To achieve this, the Claims Office developed a set of values and fundamentals that are critical to how the organization operates: 1) operate as one team executing one mission; 2) do the right thing today and tomorrow; 3) deliver excellence to help everyone succeed in the claims process; 4) respect the needs and experiences of those we serve; 5) communicate clearly and transparently; 6) honor commitments; 7) practice rapid reconciliation; and 8) invest in us. In

addition, the Claims Office has set the expectation that all employees embody the core values of FEMA which are compassion, fairness, integrity, and respect.

1.3 Authority

The Hermit's Peak/Calf Canyon Claims Office (“Claims Office”) provides compensation based on the Act and the Hermit's Peak/Calf Canyon Fire Assistance regulations codified at 44 C.F.R. Part 296. These authorities identify eligible losses and requirements for filing a claim. When the Program and Policy Guide (PPG) uses the words “must” or “required,” it is a legal requirement. Claimants¹ may jeopardize their compensation if they do not comply with these requirements.

The Act requires the Federal Emergency Management Agency (FEMA) to design and administer a claims program to compensate claimants for their property losses, financial losses, and business losses, while providing expeditious consideration and settlement for those claims. The Act’s funding is distributed through the Claims Office directly. The Claims Office works alongside the state of New Mexico, Tribal Nations, and local partners to design and implement the Hermit’s Peak/Calf Canyon claims process. The Act further directs FEMA to establish an appeals and arbitration process to resolve disputes regarding claims.

1.4 Election of Remedies

Individuals and entities may seek compensation for damages suffered from the fire from the United States through one of three mechanisms:

- the Act;
- the Federal Tort Claims Act; or
- a civil lawsuit against the United States (as authorized by another law).

Injured Persons² who accept a final award under the Act waive the right to pursue any claims arising out of or relating to the same subject matter, whether through the Federal

¹ A person or entity that has filed a Notice of Loss (NOL) under the Act.

² Injured Person is defined as, “An individual, regardless of citizenship or alien status; or a Tribal Nation, tribal corporation, corporation, partnership, company, association, county, township, city, state, school district, or other non-federal entity with losses resulting from the fire. The term Injured Person includes a tribal government or Tribal Nation with respect to any claim relating to property or natural resources held in trust for the tribe by the United States. Lenders holding mortgages or security interests on property affected by the Hermit’s Peak/Calf Canyon Fire and lien holders are not an “Injured Person” for purposes of the Act.” 44 C.F.R. § 296.4.

Tort Claims Act or a civil lawsuit.³ An Injured Person who accepts a final award from the United States under the Federal Tort Claims Act or other civil action relating to the fire similarly waives the right to pursue a claim under the Act. When a claimant accepts a partial payment award, they waive the right to pursue legal action regarding the items in that partial payment. They can pursue compensation for other losses via the claims process, the Federal Tort Claims Act, or a civil lawsuit against the United States (as authorized by another law).

1.5 Purpose of this Guide

FEMA issues policy and guidance to articulate the Agency's intent and direction when implementing statutory and regulatory authority. The purpose of the PPG is to define the Claims Office's policy and procedural requirements at the time of publication.

The PPG provides high-level program delivery information and describes important processes that occur throughout the claim lifecycle. The Claims Office uses the PPG to inform claimants, community members, and Claims Office staff of the policy guidelines applicable to claims filed under the Act. However, each claim will be resolved on a case-by-case basis, taking into consideration each claimant's particular circumstances.

The Claims Office will release new versions of the PPG when updates are required to reflect the best available data, updated policy, process changes, or eligibility clarifications. The changes will be noted in the version history, table of changes, and a new version number will be assigned.

Although the PPG is based on and aligned with the Act and the implementing regulations, those authorities supersede this guide in the event of a conflict.

³ 44 C.F.R. § 296.12.

2. OVERVIEW OF THE CLAIMS PROCESS

The Claims Office staff supports claimants throughout the claims process. Navigators and Claims Reviewers are the primary staff that claimants interact with from the Claims Office. Navigators are trusted members of the local community that provide individualized support to claimants and assist them throughout the life of the claim but are not authorized to make eligibility or compensation determinations. Navigators are FEMA employees. Claims Reviewers are insurance adjusters contracted by the Claims Office that are authorized by the Claims Office Director to review and evaluate claims submitted under the Act (see **Roles and Responsibilities** for descriptions of staff roles and responsibilities).

Figure 1: Claims Process Overview lists each step of the claims process. The claimant has 150 days from the date that the Notice of Loss (NOL) was acknowledged by the Claims Office to submit their final Proof of Loss (POL). The Claims Office has 180 days from the date that the NOL was acknowledged to process a claim and notify the claimant of a compensation determination. A document is deemed submitted to the Claims Office based on the date that the document is postmarked or emailed.

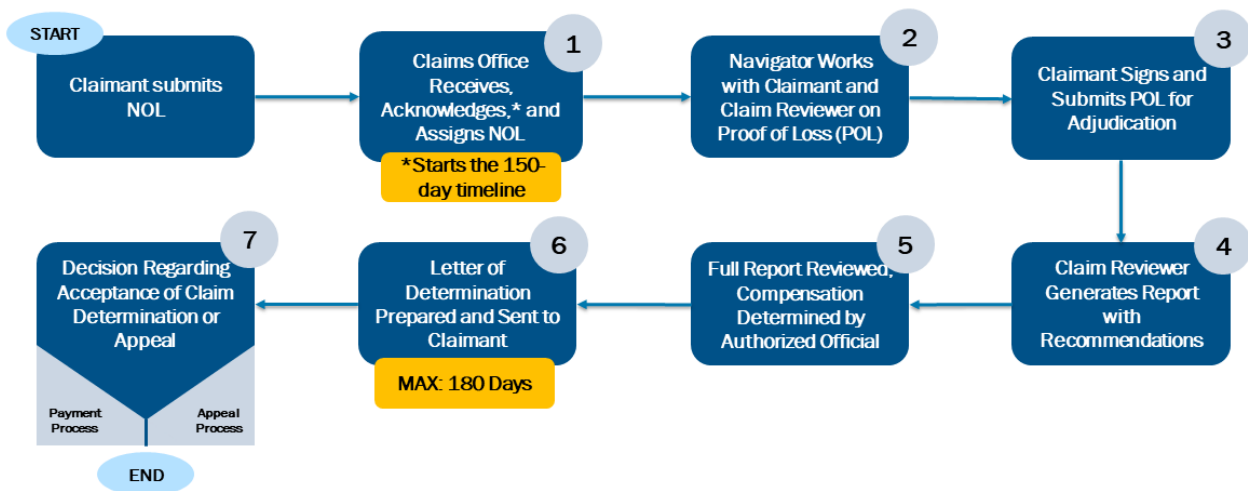


Figure 1: Claims Process Overview

Notice of Loss Submission and Acknowledgement

Filing a NOL with the Claims Office is the first step in the claims process. The Claims Office supplies the NOL form, through which an Injured Person enters the claims process for possible compensation under the Act. On the NOL, claimants provide their contact information, list losses for which they are seeking compensation, and identify an Authorized Third-Party representative, if desired. To designate a third-party representative and authorize them to receive communications, claimants must complete the third-party representation portion of the NOL identifying the attorney or other authorized representative and consenting to disclosure of claim information.

Claimants can consent to share their claim information with the State of New Mexico on the NOL. This allows the Claims Office to share information with the Disaster Case Management (DCM) program administered by the State. The DCM program helps to support claimants by identifying different types of assistance to meet immediate or short-term unmet needs.

After submitting the NOL, the Claims Office will assign a Navigator to the claim who will contact the claimant to review their NOL and verify contact information. The Claims Office will provide the claimant or authorized third party with a written or electronic acknowledgement that the claim has been filed and assigned a unique claim number. This acknowledgement starts the 150-day deadline for the claimant to submit their final POL and supporting documentation and the 180-day deadline for the Claims Office to make a compensation determination.

During the initial conversation between the claimant and their assigned Navigator, the Navigator may support the claimant in identifying losses that can be eligible for a partial payment. This provides an opportunity for the claimant to receive payment for eligible losses while still progressing through the claims process for their overall, larger claim(s). For more information regarding partial payments, refer to **8.2 Partial Payments**.

Claimants must submit all NOLs **no later than November 14, 2024**.⁴

Loss Documentation

Navigators maintain contact with the claimant and support the claimant throughout the claims process. Navigators will discuss losses identified in the NOL, advising the claimant of common types of losses and the supporting documentation requirements that will likely be

⁴ Section 104(d)(4)(C)(vii) of the Act, Pub. Law 117-180, 136 Stat. 2169.

applicable to their claims. The Navigator can also help the claimant obtain required documentation, help complete and submit necessary forms, and answer any questions a claimant may have. The Navigator acts as the Claims Office main contact for the claimant and may provide other support as requested, such as informing the claimant of other available federal financial assistance or referring the claimant to other state, local, and/or tribal resources and programs.

Proof of Loss Submission

After the claimant discusses their submitted claim with their Navigator, the Navigator and claimant will begin gathering documents to complete a POL form. The POL is a sworn statement attesting to the nature and extent of the claimant's losses. Claimants can submit multiple POLs for their claim if any of their losses are severable and eligible for partial payment. See **8.2 Partial Payments** section for more information about severable losses and partial payments. A final POL must be submitted within 150 days of the NOL acknowledgement. The Claims Office will reach out to claimants 120 days after acknowledgement of the NOL to ensure the claim is on track to meet the deadlines to ensure they are progressing with any documentation needs and offer support as necessary.

All POLs associated with the claim must be signed and submitted within 150 days of the NOL acknowledgement date, as required by the regulations.⁵ The claimant is responsible for establishing that any submitted losses are the result of the fire and for providing all documentation needed to assess those losses for eligibility and compensation.

Proof of Loss Review and Determination

The Claims Reviewer will review the POL and supporting documentation and prepare a summary which will include a recommended compensation amount for each loss listed on the POL and any duplication of benefits (DOB) payments that affect the Claims Office compensation determination. The Claims Reviewer will also review relevant documentation to verify that the loss was caused by the fire or resulting hazards and will evaluate ownership documents to verify the claimant is the proper payee. The Claims Reviewer is responsible for providing an objective evaluation of the claim to the Authorized Official.

⁵ 44 C.F.R. § 296.30(b).

Compensation Determination

The Authorized Official will review the POL and summary prepared by the Claims Reviewer to determine if the recommended compensation aligns with policies. The Authorized Official will then confirm the amount of compensation due to the claimant. The Claims Office will provide a written decision to the claimant through a Letter of Determination (LOD), which includes a summary of the compensation amounts determined by the Claims Reviewer. The LOD uses the POL and the Claims Reviewer summary to determine compensation. The claimant has 120 days to accept or reject the determination.⁶ If accepted, the claimant will receive payment after returning completed Release and Certification (R&C) and Banking Information form.

When the claimant completes the final R&C Form and accepts final payment from the Claims Office, the claimant's decision to accept compensation is final, and the claimant may no longer seek other legal remedies, but may reopen their claim under certain specific circumstances outlined in **9.1 Reopening a Claim**.⁷

Roles and Responsibilities

The figure below provides a summary of the personnel who interact most with claimants throughout the claims process.

⁶ 44 C.F.R. §296.32(b).

⁷ A partial R&C and partial payment is only final as to the part of the claim for which partial payment is accepted. If a claimant accepts a partial payment on estimated costs, the claimant can reopen the claim for compensation of actual costs, as discussed in **9.1 Reopening a Claim**.

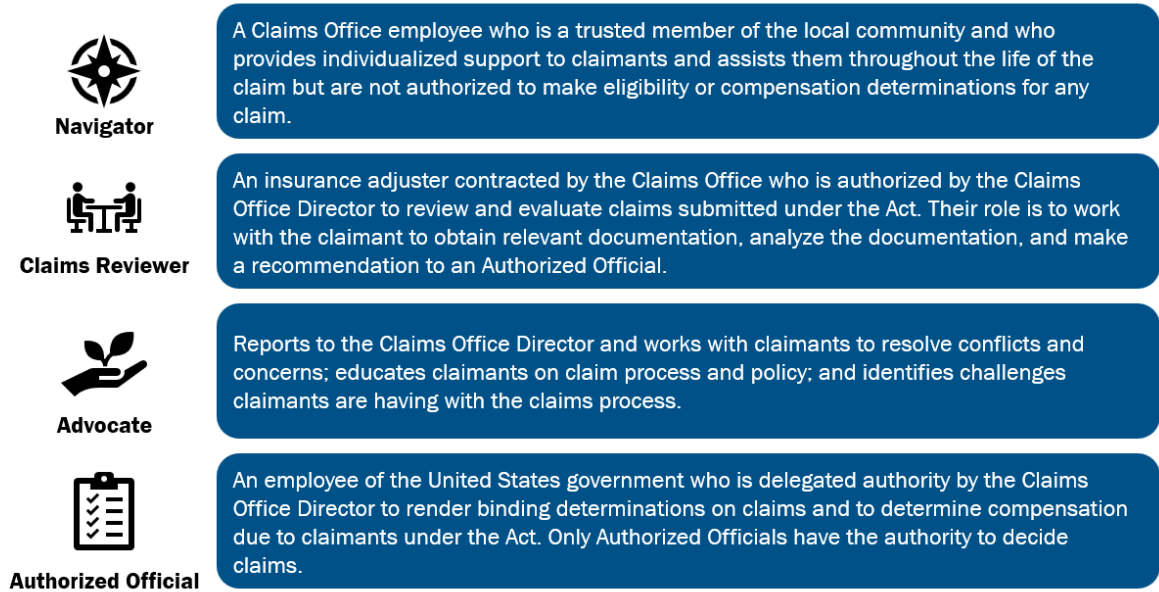


Figure 2: Roles and Responsibilities

Appeals

If the claimant is not satisfied with the decision and chooses not to sign the R&C Form, the claimant may file an administrative appeal with the Claims Office Director. If the claimant is not satisfied after appeal, the dispute may be resolved through binding arbitration or heard in the United States District Court for the District of New Mexico. At any time prior to accepting final payment from the Claims Office, the claimant may withdraw the claim and pursue any other available legal remedies.

More detail on the appeals process can be found in **10.1 Administrative Appeals**.

Claims Office Advocate

The mission of the Advocate is to ensure the Claims Office and processes are equitable, claimant-centric, accountable, and transparent. The Advocate works to ensure that the affected communities are fully informed of the claims process and the types of compensation available. To do this, the Advocate fosters connections with various local stakeholders and partners to best understand the needs of the community. The team regularly hosts local events to provide support and information to claimants and the community outside of Claims Office locations and after working hours. The Advocate reports directly to the Claims Office Director and independently identifies and escalates challenges

with the claims process or issues brought to their attention by the community. The Advocate's Office also works directly with claimants when they encounter challenges during the claims process and advocates on their behalf for timely and fair resolution. Finally, the Advocate collaborates with Claims Office staff to identify ways to simplify the claims process for claimants.

At any point throughout the claims process, a claimant may elect to elevate any concerns or questions to the Advocate. The claimant can access the Advocate through their Navigator or using the following contact information:

Claims Office Advocate

(505) 403-3373

FEMA-Hermits-Peak-Claims-Advocate@fema.dhs.gov

<https://www.fema.gov/disaster/current/hermits-peak/contact-us>

Withdrawing from the Claims Process

Claimants may withdraw their claim from consideration for compensation at almost any point during the claims process. Claimants can withdraw after submitting their NOL, after their NOL is acknowledged, after submitting their POL, and after accepting a partial payment. If a claimant has accepted a partial payment and received the payment distribution, they can still withdraw the rest of their claim from the claims process.

The only point at which a claimant can no longer withdraw their claim is after receiving and accepting their final payment LOD. If the claimant has accepted the payment determination listed in their final LOD and submitted a completed and signed R&C Form for that final LOD, they are no longer able to withdraw their claim. Claimants may provide their withdrawal notice to the Claims Office in writing via an email or letter. At minimum, the withdrawal notice should include the claimant's name, claim ID, and a statement that the claimant intends to withdraw the claim. The notice to withdraw can be sent to the Claims Office via email, fax or mail.

Translation Services

Translators can provide information and assist claimants throughout the claims process either in person or by telephone. The Claims Office provides all required forms in both English and Spanish.

Privacy Act

FEMA is required to provide a copy of the Privacy Act Notice to all claimants, which is included with the NOL.⁸ While the Claims Office encourages claimants to read and understand the Privacy Act Notice, there is no requirement that a claimant sign or initial a statement that states that the notice has been read and understood.

⁸ 44 C.F.R. § 296.37.

3. NOTICE OF LOSS

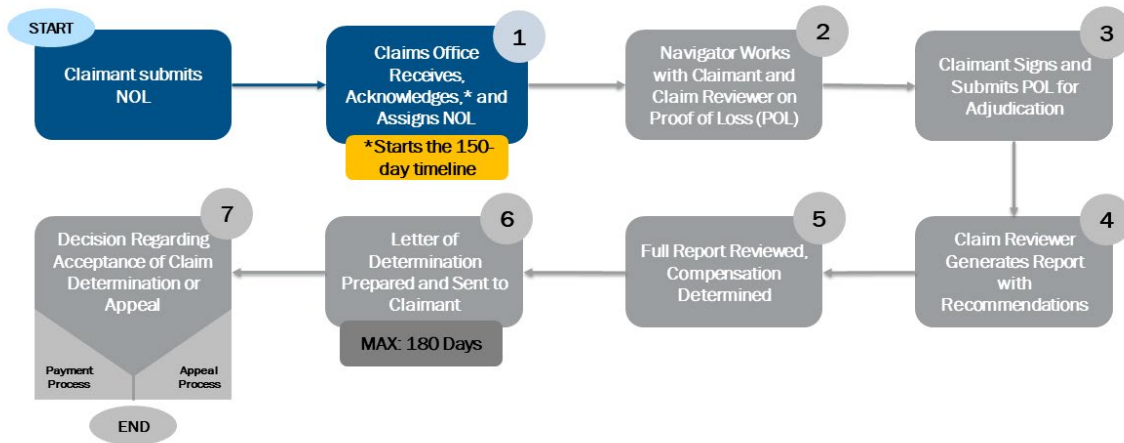


Figure 3: Notice of Loss

3.1 Who Can Submit a Notice of Loss

Any Injured Person can submit a NOL to the Claims Office. An Injured Person under this Act is defined as any individual, regardless of citizenship or alien status; or a Tribal Nation, tribal corporation, corporation, partnership, company, association, county, township, city, state, school district, or other non-federal entity that suffered injuries resulting from the fire.⁹ An Injured Person that submits a NOL to the Claims office is a claimant.

Claimants that wish to be represented by an attorney or other third party in the claims process must complete the “Authorization of Representation” section of the NOL to identify their legal representation and consent to the disclosure of their claim information. In addition to attorneys, claimants can also designate a family member or friend as an Authorized Third-Party representative.

If the Injured Person is deceased, the claim can be filed by the lawfully appointed executor or personal representative of the estate. The executor or personal representative should

⁹ Section 103(4) of the Act, Pub. Law 117-180, 136 Stat. 2169; 44 C.F.R. § 296.4.

send proof of their authority when submitting the claim so that their eligibility to submit a claim can be verified by the Claims Office.

The Claims Office does not require individual claimants apply for FEMA disaster assistance before filing a NOL. However, injured parties who are eligible applicants for FEMA Public Assistance (PA) are required to first apply for FEMA PA before submitting claims to the Claims Office (a list describing entities that must first apply to FEMA PA can be found in **5.5 Government and Private Non-Profit Losses**). Compensation will not be awarded by the Claims Office for losses or costs that are eligible under FEMA PA.

Subrogation Claims

An insurer, or other third party with the rights of a subrogee who has compensated an Injured Person for fire-related losses, may file a NOL under the Act for the subrogated claim. A subrogee may file a NOL without regard to whether the Injured Person who received payment from the subrogee filed a NOL and received compensation from the Claims Office. A subrogee should not file a subrogation NOL until after they have made all payments to the insured, as the Claims Office will not process a subrogation claim for compensation until after all payments have been made by the subrogee. The subrogee may file a NOL if there is a dispute between the Injured Person and the subrogee which is pending before a third party (e.g., appraiser, arbitrator, or court), provided that the insurer has made the final payment that it believes that the insured is entitled to receive under the policy.¹⁰ Subrogation claimants will submit the POL contemporaneously with filing the NOL.¹¹ The deadline to file a NOL, including a subrogation NOL, with the Claims Office is November 14, 2024. Subrogation claims do not impact any claims in process for insured parties.

The Claims Office will not consider a subrogation claim for compensation unless the subrogee commits to exclusively use the Act as its mechanism for seeking compensation from the United States for all fire-related subrogation claims and any other fire-related losses. By filing a NOL for any subrogated claim, the subrogee elects the Act as its exclusive remedy against the United States or any employee, officer, or agency of the United States for all subrogated claims arising out of the fire.

¹⁰ 44 C.F.R. §296.13.

¹¹ 44 C.F.R. § 296.13.

3.2 How to Submit a Notice of Loss

Interested parties can obtain a NOL form from FEMA's website at <http://www.fema.gov/hermits-peak> or from any of the Claims Office locations listed in the **Claims Office Locations and Hours of Operation** section below. A claim submitted on any form other than the NOL form will not be accepted.

A single NOL may be submitted on behalf of multiple Injured Persons provided that all Injured Persons listed on the claim are identified as members of the same household or have financial interest in the claim. The NOL should identify all owners or entities with an ownership interest in property for which compensation is being claimed.

NOL Information and Signature Requirements

Claimants must provide a brief description of each loss on the NOL.¹² The NOL does not need to include a comprehensive list of all losses experienced by the claimant, as claimants may identify additional losses as they progress through the claims process. Any additional losses not previously identified on the NOL can be included on the subsequent POL. Claimants do not need to amend their previously submitted NOL to include additional losses on the POL, however including additional losses does not change the deadlines associated with the claim.

For individual or household claims, each claimant identified must sign the NOL. For business or organizational claims, an authorized representative or owner must sign the POL. If a claimant lacks the legal capacity to sign, such as a minor or an individual with diminished mental capacity, a duly authorized legal representative of the claimant can sign the NOL on their behalf. If signing the NOL as the legal representative of a claimant who lacks legal capacity, the signer must disclose their relationship to the claimant. The Claims Office may require a legal representative to submit evidence of their authority to act on behalf of the claimant.¹³ Claimants with legal or other representation must designate the attorney or other representative as their Authorized Third-Party representative on their signed NOL to comply with the Privacy Act and to ensure all communications are properly facilitated through their legal representation.

¹² 44 C.F.R. §296.10.

¹³ 44 C.F.R. §296.10.

Claims Office Locations and Hours of Operation

Claimants may file a NOL with the Claims Office by mail, email, or in person.¹⁴

Mailing Address:

FEMA Hermit's Peak/Calf Canyon Claims Office
P.O. Box 1329
Santa Fe, NM 87504

Email: fema-hermits-peak@fema.dhs.gov

Office Locations:

For a list of Claims Office locations and operating hours, please visit:

<https://www.fema.gov/disaster/current/hermits-peak/contact-us>

If a claimant submits a NOL in person at a Claims Office location, staff will perform a cursory review of the NOL to ensure the claimant has completed and signed the document before accepting it. Claimants should be aware that they are ultimately responsible for ensuring the NOL is appropriately signed when submitting the form. Staff can also make a copy for the claimant's record, if requested. Staff will formally acknowledge the NOL later and enter it into the Claims Office system of record.

Deadline for Filing a Notice of Loss

The deadline to submit a NOL to the Claims Office is November 14, 2024.¹⁵ Claimants may include additional losses not listed on their NOL at any time up until submitting the final POL. Claimants may have more than one NOL for specific circumstances such as requesting flood insurance or risk reduction activities.

In limited circumstances, the claimant can request the Claims Office consider supplementing a claim after the POL is filed but before the R&C is submitted. The request to supplement must be received in writing not later than the deadline for filing an Administrative Appeal or November 14, 2024, whichever is earlier. The claimant can request to re-open a claim after the R&C has been filed, but these requests must be submitted by

¹⁴ 44 C.F.R. § 296.10(e).

¹⁵ 44 C.F.R. § 296.11.

November 14, 2025.¹⁶ More information regarding supplemental claims and re-opening of claims is available in **9: Reopening or Supplementing a Claim**.

3.3 Notice of Loss Acknowledgement

The Claims Office aims to acknowledge each claim by letter and/or email to the address listed on the NOL within 30 days of receipt. If a claimant has questions on the status of their NOL acknowledgement, they may reach out to the Advocate for assistance. It is the operational goal for the Navigator to contact the claimant within three days of acknowledgement of the NOL. This allows the Navigator to confirm the claimant's contact information by phone or email.

If a claimant is represented by an attorney as their authorized third party, the Claims Office will send the acknowledgement letter for their claim directly to the attorney. In claims with multiple claimants, notifications will go to the claimant designated as the primary contact on the NOL. The Claims Office considers the NOL formally acknowledged based on the date printed on the acknowledgement letter provided to the claimant. This date of acknowledgement starts the 150-day timeline for the claimant to develop and submit a final POL, as well as the overall 180-day timeline for the Claims Office to make a compensation determination.

In addition to a mailed acknowledgement letter, the assigned Navigator will notify the claimant or their third-party representative via phone and advise them of the acknowledgement date and the POL submission deadline, both of which are also provided in the letter. Claimants can request that the Navigator send them a digital copy of the acknowledgement letter via email. The Claims Office will work to contact claimants through their preferred method of communication but may use multiple methods to ensure contact with the claimant is successful.

¹⁶ 44 C.F.R § 296.35.

4. PROOF OF LOSS

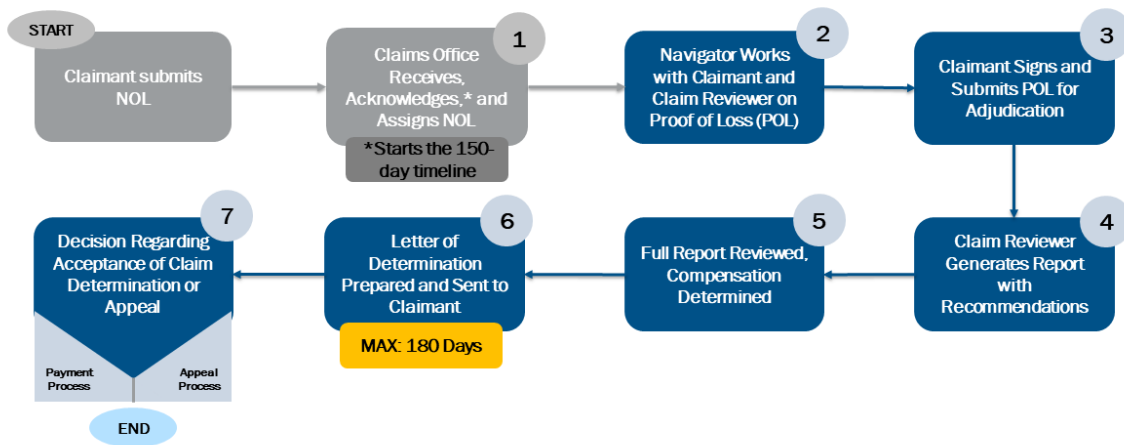


Figure 4: Proof of Loss

The POL is a detailed accounting of a claimant’s loss(es) and the associated amounts of compensation being requested for each loss. The section of the form to request compensation is formatted according to the claimant type – Individual or Household, Business or Non-Profit Organization, or Government (state, local, or tribal). Claimants must also submit all required documentation to verify eligibility and support the claimant-requested amounts of compensation for each loss listed on the POL.

The Navigator offers assistance to the claimant in completing their POL and collecting necessary documentation. The Claims Reviewer reviews, investigates, and objectively evaluates the POL on behalf of the Claims Office. Claims Reviewers do not function as agents or representatives of the claimant but work closely with the assigned Navigator to identify necessary documentation requirements to adequately assess the eligibility and valuation of the losses. The Claims Office may need to contact third-party sources, such as insurance companies, for additional information, and claimants may be asked to sign a release form to authorize information sharing between entities.

4.1 Supporting a Proof of Loss

The claimant bears the burden of proving their eligibility for compensation from the Claims Office and must provide documentation to verify their requested compensation amounts for each submitted loss.¹⁷ Claimants can submit any information or documentation that they deem relevant to their loss(es) to establish a record for the Claims Office to evaluate. The claimant is solely responsible for establishing this. The Claims Office is required to justify compensation determinations and expects claimants to provide any reasonably available documentation to corroborate the nature, extent, and value of their losses.

While the Claims Office does have documentation standards that must be met to qualify for compensation, it aims to be as flexible as possible with the type and amount of documentation required, in alignment with regulations. In some circumstances, the Claims Office may rely on sworn statements (see **Declarations and Affidavits** under 4.1D: Supporting a Proof of Loss) in the absence of any other documentation. The Claims Reviewer will work with the Navigator to determine alternative documentation requirements to accommodate the claimant.

The Claims Office will consider all evidence in the record when making determinations on each claim. The Claims Office may require an inspection of real property to verify certain losses as part of the claims process.¹⁸

Eligibility Documentation

To be eligible for compensation, a claimant must show that any losses being claimed were caused by the fire or subsequent flooding, wind shear, or other hazards arising from the fire, starting on April 6, 2022. Damage from other fires or other causes not related to the fire are not eligible. Documentation for proving a loss will vary depending on the loss type, but for all loss types, the claimant should be prepared to provide proof that their loss was specifically caused by the fire or subsequent events resulting from the fire.

Proof of Ownership

Claimants must prove that they owned the damaged property at the time of loss caused by the fire or other hazards arising from the fire. Navigators can work with the claimants to

¹⁷ 44 C.F.R. § 296.30(a).

¹⁸ 44 C.F.R § 296.30(a).

verify ownership by helping the claimant to identify and collect one or more of the documentation types listed below.

Table 1: Proof of Ownership includes examples of the types of documents and acceptable dates that claimants may submit to verify ownership. If primary sources for documenting ownership are unavailable, multiple secondary sources may be used to show ownership.

Documentation to Verify Ownership	
Primary Source of Ownership Documentation	
Document and Description	Acceptable Document Date
Property Tax Statement: Tax Statements ¹⁹ are the best form of current proof of ownership, and in most cases, the easiest to obtain. If the tax statement does not list a physical “street address,” supporting documentation from the documentation types shown below can be utilized to obtain a physical address.	Current year statements are always available and show ownership effective April of 2022.
Deed or Official Record: Original deed, warranty deed or deed of trust to the property. Must also include a utility bill dated between April 2022 and present.	Deed must be current/effective between April 2022 to the present.
Mortgage Documentation: Mortgage statement, mortgage promissory note, or the closing disclosure form.	Mortgage statements or escrow documents must be dated between April 2022 to the present.
Structural or real property insurance document, bill, or payment record.	Documents must be dated between April 2022 to the present.
Secondary Sources of Ownership Documentation	
Document and Description	Acceptable Document Date
Miscellaneous Legal Documents <ul style="list-style-type: none"> • Real Estate Contract • Contract for Deed • Land Installment Contract • Quitclaim Deed • Bill of Sale or Bond for Title 	Document must be current/effective between April 2022 to the present.

¹⁹ A current tax statement can be obtained online for San Miguel County at this link: [Search](#). Mora County Tax Statements can be obtained in person at the Mora County Courthouse.

Documentation to Verify Ownership	
<p>Mobile Home Park Letter: In the case of mobile homes or travel trailers located in a mobile home park, the claimant may submit a letter or other written statement from the commercial or mobile park owner or manager, which states that the claimant or co-claimant owned the fire-damaged dwelling at the time of the fire. The letter or written statement must include the name and telephone number of the individual providing verification and must explain how the individual knows the claimant or co-claimant owned the mobile home or travel trailer at the time of the fire (i.e., they had a copy of their ownership documentation on file).</p>	<p>The commercial or mobile park owner’s or manager’s letter or written statement must be dated current/effective between April 2022 to the present.</p>
<p>Court Documents: A copy of court documentation that states the claimant owns the fire-damaged dwelling.</p>	<p>Court documentation must be effective between April 2022 to the present.</p>
<p>Public Official’s Letter: Public official’s (i.e., federal, state, local, tribal, or territorial government official) letter or other written statement that includes the name of the claimant or co-claimant, the fire-damaged dwelling address, verification that the claimant or co-claimant owned the fire-damaged dwelling at the time of the fire, and the name and telephone number of the individual providing verification.</p>	<p>Public official’s document must be effective between April 2022 to the present.</p>
<p>Place of worship records: In some cases, it may be necessary to rely on church records and the like for properties that have been inherited for generations without the use of formal documentation.</p>	<p>Document must be effective between April 2022 to the present.</p>

Table 1: Proof of Ownership

Multiple and/or Shared Ownership

As the claim is developed, all claimants with an ownership stake in the property or damaged items must be identified and involved in the claims process. When completing the NOL, all potential claimants should be listed in the Claimant Contact Information section of the NOL if they decide to submit one joint claim.

The primary claimant on the NOL, who is listed in the claimant contact information section, is designated as the primary contact for the claim. Co-claimants listed on the NOL may also reach out to the Navigator for information on the status of the claim.

In certain cases, declarations or affidavits may be necessary to ensure that all owners are aware of and in agreement with the compensation approach and amounts.

Navigators and Claims Reviewers will review all documentation submitted to verify ownership of property to determine if the claimant is the sole owner or if other owners are identified. A claimant is only eligible for compensation for damaged or destroyed property to the extent that they own the property. If others have an ownership interest as shown on ownership documents such as deeds, titles, or other similar documentation, they are legally entitled to share in the compensation and must be included in the claim resolution and execute claims documents, including providing proof of identity and signing the POL and R&C. Payment on the claim must address the interests of all owners.

If ownership documents indicate that property is owned in trust, the trust is the payee for compensation. A trustee should be prepared to provide trust documents to ensure that compensation is paid as appropriate.

In addition to submitting a declaration acknowledging payment, if necessary, and signing the POL and R&C, if the co-owner(s) of the property do not have verified claimant records within the system of record, each co-owner will need to submit documentation to verify identification. Please refer to the **Proof of Identity** section immediately following for a list of acceptable documents to verify identity. Co-owners should submit a copy of their proof of identity documentation with their signed declaration.

Proof of Identity

To verify identity, claimants should be prepared to provide at least one of the following types of photo ID:

- Driver's License, State or Tribal ID;
- United States Passport Booklet or Card;
- United States Military ID.

If claimants do not have a photo ID, claimants should refer to their state's Motor Vehicle Division (MVD) website, or to [New Mexico Motor Vehicle Division NM \(newmexico.gov\)](http://newmexico.gov) which lists many types of [alternative documents](#) that claimants may provide in order to acquire a new driver's license or State or Tribal ID.

Proof of Occupancy

For claimants who reside or resided in their damaged property part-time or for claimants who rented or leased their residence or property, **Table 2: Proof of Occupancy** below provides additional types of documentation that claimants can use to demonstrate that they occupied the damaged property at the time of the fire (including part-time occupancy). Proof of occupancy is required for claimants that are renters or claiming losses where determining the proximity to the fire may be important for determining compensation.

Documentation to Verify Occupancy	
Document and Description	Acceptable Document Date
Lease/Housing Agreement: Copy of a written lease, housing agreement, a letter or other written statement from the landlord that includes: the name of the claimant or co-claimant, the landlord's contact information, the basic terms of tenancy including: the location of the pre-fire unit, the duration of the lease confirming that the claimant lived there at the time of the fire, signatures from both the claimant or co-claimant and the landlord. The Claims Office will accept a lease or housing agreement without a signature from the landlord, but FEMA must be able to verify the lease with the landlord.	Documents must be current/effective during the fire period (April 5, 2022 - July 23, 2022).
Utility Bills: Electric, gas, oil, trash, water/sewer bills that reflect the name of the claimant or co-claimant and the damaged residence address.	Utility bills must be current/effective during the fire period (April 5, 2022 - July 23, 2022).
Other Bills: Bank or credit card bill, phone bill, cable/satellite bill, medical provider's bill, etc., that reflect the name of the claimant or co-claimant and the damaged residence address.	Bills or invoices must be current/effective during the fire period (April 5, 2022 - July 23, 2022).
Employer's Documents: Pay stubs or similar documents received before the fire, or a letter or other written statement from an employer prepared after the fire that shows the claimant or co-claimant and the damaged residence address. The letter or written statement must include the name and telephone number of the individual or organization providing verification.	Employer's documents must be current/effective during the fire period (April 5, 2022 - July 23, 2022).

Documentation to Verify Occupancy	
<p>Rent Receipts: Copy of a rent receipt or bank statement showing the name of the claimant or co-claimant, the landlord's contact information, and the address of the pre-fire housing unit.</p>	<p>Rent receipts must be current/effective during the fire period (April 5, 2022 - July 23, 2022).</p>
<p>Social Service Organization Documents: Documentation received before the fire from a social service organization that provided pre-fire services to the claimant (e.g., Center for Independent Living, Meals on Wheels, the National Urban League, etc.) and includes the name of the claimant or co-claimant and the fire-damaged dwelling address or a letter or other written statement from the organization prepared after the fire verifying that the claimant or co-claimant occupied the fire-damaged dwelling at the time of the fire. The letter or written statement must include the name and telephone number of the individual or organization providing verification.</p>	<p>The social service organization documents must be current/effective during the fire period (April 5, 2022 - July 23, 2022).</p>
<p>Local School Documents: Documentation received from a public or private school or the school district before the fire that include the child's fire-damaged dwelling and the name of the claimant or co-claimant, or a letter or other written statement from the school or school district prepared after the fire verifying the child's residence at the time of the fire and includes, in the case of a dependent, the name of the claimant or co-claimant. The letter or written statement must include the name and telephone number of the individual or organization providing verification.</p>	<p>The local school district documents must be current/effective during the fire period (April 5, 2022 - July 23, 2022).</p>
<p>Public Official's Letter: Public official's (i.e., federal, state, local, tribal, or territorial government official) letter or other written statement that includes the name of the claimant or co-claimant, the fire-damaged dwelling address, that the claimant or co-claimant owned the fire-damaged dwelling at the time of the fire, and the name and telephone number of the individual providing verification.</p>	<p>Public official's document must be current/effective between April 2022 to the present.</p>

Documentation to Verify Occupancy	
<p>Federal or State Benefit Documents: Documents received before the fire from a federal or state agency that provided benefits to the claimant (e.g., Supplemental Nutrition Assistance Program (SNAP), stimulus checks, etc.) and includes the name of the claimant or co-claimant and the fire-damaged dwelling address or a letter or other written statement from the organization prepared after the fire verifying that the claimant or co-claimant occupied the fire-damaged dwelling at the time of the fire. The letter or written statement must include the name and telephone number of the individual or organization providing verification.</p>	<p>The federal or state agency benefits documents must be current/effective during the fire period (April 5, 2022 - July 23, 2022).</p>

Table 2: Proof of Occupancy

Valuation Documentation

Claimants are responsible for submitting the necessary documentation to justify the requested amounts for compensation for each submitted loss. This documentation can include receipts, estimates, appraisals, or any other documentation that verifies the estimated value of a loss. If an estimate is required to evaluate one or more of a claimant’s losses, the Navigator will advise the claimant of which type of document will best suit the loss such as estimates by the Claims Office, private quotes, or appraisals.

Claims Expenses and Third-Party Assessments

The Claims Office will reimburse claimants for reasonable costs they incur to provide documentation or estimates, including third party assessments, valuations, and appraisals that are requested or deemed necessary to determine the amount of the claim by the Claims Office. The Claims Office will not reimburse claimants for the cost of appraisals or other third-party opinions not deemed necessary by the Claims Office.²⁰ Additional information regarding reimbursement of claims expenses can be found in **5.7**

Reimbursement of Expenses to Submit a Claim.

Where possible, claimants should request approval from the Claims Office for a third-party assessment or appraisal in advance before receiving the service. Assessments and appraisals that aid in determining compensation amounts, validate ownership or property lines, or provide technical assistance to claimants are eligible for compensation. All third-

²⁰ 44 C.F.R. § 296.31.

party products will be assessed to ensure their costs are reasonable based on other assessments received by the Claims Office or by providing multiple quotes.

Declarations and Affidavits

If documentation or other substantiating evidence of a loss is not reasonably available or insufficient to prove the claim (e.g., if documentation burned in the fire and is not available in public records), the Claims Office may determine that a sworn statement from the claimant, such as declarations or affidavits, will be required to aid in substantiating the loss. Declarations are sworn and signed statements, and affidavits are signed and notarized. If a claimant chooses to use a Claims Office estimate, a declaration, or affidavit for a compensation determination, they should still provide any relevant documentation or receipts as available. The Claims Office may request that the claimant obtain an affidavit or declaration from a third party to strengthen the claim if the actual documentation is not sufficient. If required, the Claims Office will provide guidance on which document is most appropriate and how to obtain them.

4.2 How to Submit a Proof of Loss

No later than 150 days after submitting a NOL, a claimant must submit a final POL to the Claims Office. Although a Navigator may have assisted the claimant to prepare the POL, the claimant is responsible for assuring that the information provided in the POL is accurate and must sign the POL under penalty of perjury. For good cause, the Claims Office will consider requests for extensions, which will be granted at the discretion of the Claims Office Director. If a non-subrogation claimant does not complete the final POL within this timeframe, or fails to obtain an extension, the Claims Office may administratively close the claim and notify the claimant.²¹ In this instance, claimants can refile at any time before the November 14, 2024, deadline. A claimant may also choose to withdraw their claim at any time and re-file before November 14, 2024.

Completing a Proof of Loss

The Navigator can assist the claimant in completing the POL form. Navigators can also advise the claimant on required documentation to support the POL and can provide support

²¹ 44 C.F.R. § 296.32(b).

in obtaining any documentation. The claimant can submit documentation to the Claims Office before they sign and submit their POL.

Claimants can submit multiple POLs if any portion of the claim is eligible for a partial payment. This allows claimants to receive payment for portions of their claim that have readily available documentation. Additional guidance on partial payments is detailed in **8.2 Partial Payments**.

Once all documentation and estimates are submitted and the POL form is complete, the claimant signs and submits the POL to the Claims Office via mail, email, or in-person, as arranged with the Navigator. The signed final POL must be received by the Claims Office no later than 150 days following the acknowledgement of the NOL. The Claims Office Director may extend the deadlines for POL submission at the request of a claimant for good cause. The Claims Office will reach out to claimants 120 days after acknowledgement of the NOL to ensure the claim is on track to meet the deadlines to ensure they are progressing with any documentation needs and offer support as necessary.

Claimants must make extension requests in writing, either in person, through mail or email, or submit them via their assigned Navigator. These requests should explain the reason why the claimant is unable to submit their final POL by the deadline and the proposed length of the extension. Typically, extensions will be considered in 30-day increments. The Claims Office may recommend an extension if documentation is insufficient to meet requirements for the desired amount the claimant is seeking. However, this is ultimately at the discretion of the claimant. If they prefer to proceed based on the documentation submitted at the time of the 150-day deadline the Claims Office will make a determination based on the documentation received. For consideration, an extension request must be received by email or postmarked no later than 10 days before the submission deadline. Requests for extensions will generally not be considered earlier than 60 days before the POL submission deadline.

Evaluating the Proof of Loss

The Claims Reviewer reviews all submitted losses listed on the POL using claimant-provided documentation, estimates, or calculation methodologies. Claims Reviewers also verify identity and ownership for each loss and assess the POL for indications of potential fraud.

Some loss types may be calculated using standard, pre-determined rates when a claimant does not have adequate documentation but can attest to the loss. The standard rates offered by the Claims Office may or may not match the exact amount of the loss.

During evaluation, the Claims Reviewer also completes a duplication of benefits review. For details on this process, see **7.2 Duplication of Benefits Review Process**. Based on the documentation in the record, the Claims Reviewer prepares a summary recommending payment for review by the Authorized Official.

The Authorized Official then reviews the summary, the recommendation, and the claim record. After review, the Authorized Official makes the compensation determination and includes this in the system of record and LOD.

4.3 Letter of Determination

The Claims Office will send a claimant a LOD no later than 180 days after the date on which a claim is acknowledged. The LOD provides compensation amounts for each of the claimant's losses and includes instructions on receiving payment or to begin the appeal process.

Release and Certification

Claimants have 120 days after the date that appears on the LOD to either accept the determination by submitting a signed R&C form to the Claims Office or disputing the compensation amounts by initiating an Administrative Appeal in accordance with the process defined in **10.1 Administrative Appeals**.²² Claimants must sign the R&C form to receive payment on their claims. If the claimant does not submit a signed R&C within the 120-day deadline, the claimant will be conclusively presumed to have accepted the determination.²³ After the 120-day deadline, the claimant no longer has the option to appeal. In this instance, the Claims Office will reach out to the claimant if the 120-day deadline has passed and if the claimant still wants the compensation, they will be required to sign a R&C form to receive payment. The Claims Office Director may extend the deadlines set forth in this subsection at the request of a claimant for good cause.²⁴

²² 44 C.F.R. § 296.32(b).

²³ 44 C.F.R. § 296.32(b).

²⁴ 44 C.F.R. § 296.32(b).

Claimants must submit extension requests in writing, in person or through mail or email, via their assigned Navigator. These requests should set forth a good cause explanation for why the claimant is unable to submit the signed R&C form by the deadline. The claimant should also propose a new deadline to submit their signed R&C form. Typically, extensions will be considered in 30-day increments. For consideration, an extension request must be received by email or postmarked no later than 10 days before the submission deadline. Requests for extensions will not be considered earlier than 60 days before the R&C form submission deadline.

Once a claimant signs the R&C form, they cannot appeal the determination. Completed claims may be reopened for additional compensation in certain circumstances, such as for heightened risk reduction measures or a documented decreased value of recently sold real property. Claimants may also request to reopen their claim if they incurred additional losses as part of a reconstruction or if the actual costs of repair or replacement exceed the compensated estimates.²⁵ See **9.1 Reopening a Claim** for more information on reopening a claim. See **8.2 Partial Payments** for more information on the R&C form for partial payments.

By submitting the signed R&C form for final payments, claimants waive their right to bring a lawsuit against the United States related to a loss suffered as a result of the fire.²⁶

²⁵ 44 C.F.R. § 296.35; 44 C.F.R § 296.21(c).

²⁶ 44 C.F.R. § 296.12.

5. LOSS CATEGORIES AND EVALUATION

5.1 General Requirements

As required by the Act, the Claims Office provides payment for actual compensatory damages for property, financial, and business losses. Where applicable, New Mexico law will apply to the calculation of damages.²⁷ Damages must be reasonable in amount²⁸ and are evaluated and verified by a Claims Reviewer using estimation tools and other pricing received by the Claims Office before final review and determination by the Authorizing Official. Although all of the major loss types are discussed below, this section is not exhaustive and if claimants have any questions about a loss not contained in this section, they should discuss them with their Navigator.

5.2 Property Losses

The Claims Office may compensate damages for an uninsured or underinsured property loss, documented decreased value of real property, damage to physical infrastructure, costs resulting from lost subsistence, the cost of reforestation or revegetation not covered by any other federal program, and any other loss that the Claims Office Director determines to be appropriate for inclusion.

Real Property

Compensation for damage or destruction of real property and its contents may include the reasonable cost to repair and/or replace a structure comparable in design, construction materials, size, and improvements, taking into account post-fire construction costs in the community where the structure existed before the fire, as well as current building codes and standards. Compensation may also include the cost of removing debris (see **Private Property Debris Removal** under 5.3 Financial Losses) and other cleaning services, restoring and stabilizing the land, and compensation for any documented decreased value of land.

The Claims Office will reimburse claimants for reasonable costs to repair and/or replace real property. Claimants should be prepared to provide proof of ownership or financial responsibility, proof that the property loss was caused by the fire, photos or other

²⁷ Section 104(c)(2) of the Act, Pub. Law 117-180, 136 Stat. 2169; 44 C.F.R. § 296.21(a).

²⁸ 44 C.F.R. § 296.21(a).

documentation of the damage, complete pages of an insurance settlement or denial, and any repair receipts, invoices, or estimates. Compensation will be valued for each individual loss line item using receipts and invoices or contractor bids. Valuation estimates may also be determined using Xactimate software, with satellite imagery to support the estimate, including the total property size, materials, and building codes and standards. The Xactimate tool produces estimates similar to a contractor's estimate using material costs and labor rates from the region.

If the actual cost to replace the structure with comparable materials and size is higher than the compensation given to the claimant, the claimant may provide receipts to the Claims Office demonstrating actual costs. If the documentation reasonably demonstrates that the new structure is consistent with the previous structure, the Claims Office will pay the difference between the original determination and the actual cost to replace the property.

The Claims Office retains burn severity mapping and additional geographic information system (GIS) products which support streamlined verification of property locations and the impacts associated with the fire and subsequent floods. These maps may support the verification of property damage due to the fire. The Claims Office will work with claimants to determine which of the above methodologies (or additional methodologies, as needed) are most applicable to their claim.

For the total loss of a mobile home, Claims Office staff will work with claimants to obtain the characteristics (e.g., year, make, model, etc.) as well as any upgrades, towing capacity, and other features. Claims Office staff may contact local mobile home dealers to ensure reasonable estimates for the replacement cost of the mobile home or for models no longer being manufactured or use estimates for a comparable make and model currently on the market.

If the claimant filed real property losses with their insurance company and received payment that fully covered those losses, the Claims Office can pay the claimant's insurance deductible costs as a separate line item.

Reforestation and Revegetation

As outlined in the Act and implementing regulations, the Claims Office is authorized to compensate for reforestation and revegetation of the land for losses associated with the fire and is required to ensure there is no duplication of benefits with any other federal program such as the Emergency Forest Restoration Program through the Farm Services Agency. Based on the Act and applicable New Mexico law, the Claims Office may provide

compensation for the loss of trees: for either the cost to reforest the land or the property value loss due to the loss of trees.²⁹

Claimants have three primary ways they can receive compensation for forest or natural spaces:

- **Natural Resources Conservation Service (NRCS) Plan:** Receive a Conservation Restoration Plan from the NRCS and submit it to the Claims Office for payment. NRCS plans are developed by certified conservation planners and provide a comprehensive list of which treatments it would take to restore the land to its previous state, with a breakdown by cost for each treatment. The Burned Area Emergency Response (BAER) program burn severity maps are used to adjust costs based on amount of treatment required.
- **Private Plan:** Submit a private forestry or arborist plan for reforestation and revegetation to the Claims Office. The Claims Office will evaluate these plans for validity and cost-reasonableness. The cost for the private forester or arborist to value the property may be considered an eligible cost as a third-party valuation and the Claims Office will evaluate the cost for the valuation services, as well as the plans themselves, for validity and cost-reasonableness based on other plans and the Claims Office values.
- **Claims Office Value:** Request compensation directly from the Claims Office for damaged property. The Claims Office will use the Burned Area Emergency Response (BAER) program burn severity maps to develop a per-acre rate for reforestation/revegetation values and does not require a plan or site visit.

If a claimant disagrees with a valuation under the Claims Office value or the NRCS plan, they may still seek an independent valuation through a private plan or be compensated for actual costs to perform the restoration.

Claimants who can document income from forestry, the sale of trees, timber practices, or other actions related to the harvesting of trees from their property before the start of the fire can request compensation for these practices or other business losses based on the documentable time before those resources are expected to return. See **5.4 Business Losses** for more information on income related to trees.

²⁹ Specifically, Section 104(d)(4) of the Act, Pub. Law 117-180, 136 Stat. 2169, limits allowable costs for trees to the “cost of reforestation or revegetation on tribal or non-federal land, to the extent that the cost of reforestation or revegetation is not covered by any other federal program.”

The Claims Office may compensate claimants for landscaping losses for ornamental plants in areas close to the home. Landscaping claims will be evaluated based on verifiable quotes and per plant costs. The Claims Office will compensate for mature fruit trees based on locally available replacement costs and sustainable replacements. Landscaping plants and costs will generally be limited to plantings within 50 feet of the home but will be assessed on a case-by-case basis.

Decreased Value of Real Property

The Claims Office may award compensatory damages for a documented decreased value of real property that a claimant owned before the fire if:

- The claimant sells the real property in a good faith, arm's length transaction that is closed no later than November 14, 2024, and realizes a loss in the pre-fire value;³⁰ or
- The claimant can establish that the value of the real property was significantly diminished long-term as a result of the fire.³¹

The Claims Office is currently undertaking a study to determine the impacts of the fire on real property values and is expected to release results in early 2024.

Homeowners Insurance Increases

The Claims Office may compensate claimants for increases in homeowners insurance premiums with documentation showing that the increase in the premium is the direct result of the fire and associated impacts. The insured can request a statement from their insurance company providing a detailed description of why rates have increased, which must be provided to the claims office to justify compensation. Additionally, compensation is available if the claimant made a claim on their homeowners insurance and can demonstrate rates have increased due to the damages covered by the insurance claim and directly related to the fire. Verifiable increases in homeowners insurance rates are eligible for compensation based on the date of renewal after the fire. Compensation is not available for generalized increases in premiums.

Verifiable increases in homeowners insurance rates are eligible for compensation based on the date of renewal after the fire. Compensation is not available for generalized increases in

³⁰ 44 C.F.R. § 296.21(c)(3)(i).

³¹ 44 C.F.R. § 296.21(c)(3)(ii).

premiums. If predatory insurance practices are identified, they may be referred, with the claimant's consent, to the State of New Mexico Office of the Superintendent of Insurance.

Subsistence Resources

The Claims Office acknowledges that multiple resources which were previously used for subsistence have been lost, resulting in increased cost of living for claimants in the impacted area. The Claims Office can reimburse a claimant for the reasonable cost of replacing subsistence resources customarily and traditionally used by the claimant on or before April 6, 2022, but which are no longer available to the claimant as a result of the fire. This includes claimants who have lost or will lose the formal or informal income they generate from their property based on these resources. Examples of these resources include, but are not limited to firewood, gathering herbs, and/or meat or other animal products procured through hunting.

The Claims Office may compensate claimants for subsistence losses for the period between April 6, 2022, and the date when subsistence resources can reasonably be expected to return to the level of availability that existed before the fire. This may include advanced payments. Long-term damage awards for subsistence resources will be made to claimants in the form of lump sum payments.

Claimants should submit any available documentation describing the nature and amount of subsistence resources they had obtained from their damaged property and any receipts or invoices for substitute resources procured. To verify the loss of subsistence resources, the Claims Office can work with claimants to use existing available information (e.g., GIS mapping, satellite imagery, use photos/videos) to verify the availability and use of subsistence resources prior to the fire. If documentation is unavailable a declaration or affidavit may be used.

For each category of subsistence resources, the claimant must elect to receive compensation for either the increased cost of obtaining subsistence resources from lands not damaged by the fire or for the cost of procuring substitute resources in the cash economy.

Personal Property/Contents

The Claims Office may provide compensation for personal property losses including lost or damaged contents. Claimants are required to show proof of ownership or financial

responsibility and may be required to provide estimates, inventory, or photos of contents as evidence of the loss or damages.

In the case of a total loss of an owner-occupied home, the Claims Office will use a standard valuation approach based on 50% of the full replacement value of the home that aligns with the private insurance approach to personal property claims. For mobile homes or rented homes, content replacement is based on a per square foot value based on the market rate of homes in that area, which aligns with the private insurance industry approach. Claimants can request compensation above this rate by providing an inventory and additional documentation for losses.

Animals and Livestock

The Claims Office may compensate for loss of livestock due to the death or forced sale of livestock as a result of the fire or for the loss of livestock that may have escaped and could not be recovered, as well as the costs to remove deceased animals after the fire. The value of livestock will be based on an assessment from the county assessor, federal tax records, New Mexico Livestock Board shipping certificates, delivery costs for forced sale, or a standard value derived from five regional livestock commissions or auctions. Livestock handling equipment, loss, and repair of livestock housing/handling areas and livestock trailers lost due to the fire may also be compensable losses.

For pets that were lost or died due to the fire, compensation will generally be based upon the cost to replace the pet from a breeder, pet store, or animal shelter based on the same breed or animal type. Claimants should be prepared to substantiate that the pet was lost as a result of the fire through vet records, declarations, or other methods, and any other costs associated with the pet as a result of the fire, such as obedience or specialized training.

Veterinarian bills for pets or animals injured or with illness associated with the fire can be reimbursed with proper documentation from the veterinarian showing the treatment required was a result of the fire. Any projected future losses related to livestock as a result of the fire, such as decreased reproductive ability due to stress or injury, must be substantiated by a veterinarian. Examples of this could include a written statement from the veterinarian, veterinarian records, or bills from veterinarian visits.

Vehicles

The Claims Office may compensate for a variety of personal vehicle types including, but not limited to cars and trucks, utility vehicles, motorcycles, all-terrain vehicles, farm equipment, recreational vehicles, trailers, and boats, among others. Compensation will be based on

industry standard valuation tools specific to each vehicle such as, J.D. Power Guide (NADA), Kelly Blue Book, or others, based on zip code and/or comparable sales in New Mexico. Unregistered and uninsured cars are also eligible, with value evaluated based on the condition.

If the claimant filed their vehicle damage with their insurance company and received payment that fully covered losses, the Claims Office can pay the claimant's insurance deductible costs as a separate line item.

Destruction of Unique Items

The Claims Office may provide compensation for the repair or replacement of specialized items that can include antiques, jewelry, artwork, collectibles, and items of cultural significance. Claimants should provide proof of ownership or financial responsibility, as well as evidence of damages and value including estimates, inventory, appraisals, and photos of lost items. In the case of a total home loss, claimants will be compensated based on a percentage of the value of the home. Claimants can submit an inventory of losses, estimates, appraisals, and photos to justify additional compensation above this calculation to account for high value items.

If the claimant had an insurance policy for a specific personal property item, filed an insurance claim for their loss, and received payment that fully covered that loss, the Claims Office can pay the claimant's insurance deductible costs as a separate line item.

5.3 Financial Losses

The Claims Office may compensate for financial losses including, but not limited to increased mortgage interest costs, insurance deductibles, temporary living or relocation expenses, lost wages or personal income, emergency staffing expenses, debris removal and other cleanup costs, costs of reasonable heightened risk reduction, premiums for flood insurance, and any other loss that the Claims Office Director determines to be appropriate.³²

Small Business Administration and Disaster Recovery Loans

Claimants/borrowers who were impacted by the fire may request compensation from the Claims Office for re-payment of the principal amount and accrued interest for Small Business Administration (SBA) loans or any other recovery loans obtained between April 6, 2022, and the loan payoff date. Interest eligible for re-payment is defined as interest that

³² Section 103(4) of the Act, Pub. Law 117-180, 136 Stat. 2169; 44 C.F.R. § 296.21(5)(e).

begins accruing on the loan origination date and ends on the date the claimant/borrower receives compensation for the loan or the losses for which the loan was obtained from the Claims Office. The SBA loan reimbursement program requires claimants/borrowers to use their compensation award to repay their SBA loan in full upon receiving the compensation.

There are two options available for SBA loan repayment through the Claims Office:

1. The claimant/borrower can authorize the Claims Office in writing to pay the SBA directly on behalf of the claimant. If selecting this option, claimants/borrowers can receive reimbursement for interest paid on the loan at the same time as the loan payoff.
2. The claimant/borrower may request that the Claims Office compensate the claimant/borrower directly for their SBA loan. The claimant/borrower is required to then pay off the loan, including interest, to the SBA, immediately upon receipt of the compensation. Interest will continue to accrue until the loan is paid off, but any interest accrued on the loan after the claimant has received their payment from the Claims Office is the financial responsibility of the claimant. Claimants should repay their loan immediately upon receiving their Claims Office compensation to prevent any additional interest from accruing and to forestall SBA actions for repayment of the loan.

Flood Insurance

The Claims Office may compensate for flood insurance premiums in two different ways – reimbursement for policies already purchased, or placement of new policies purchased directly by the Claims Office that offer up to five years of coverage. Claimants are not eligible for flood insurance through the Claims Office if they were previously required to purchase and maintain flood insurance before the fire. Examples of this could include claimants that were subject to a mandatory purchase requirement before the fire as a result of a previous FEMA disaster grant or through their federally-backed mortgage lender if located in a Special Flood Hazard Area (SFHA). If claimants had flood insurance coverage in place prior to the fire they are not eligible for Claims Office funding for the coverage post-fire.

Claimants with properties located in NFIP participating communities in Mora or San Miguel counties are presumed to have a reasonable fear of heightened flood risk (excluding claimants in these counties that were required to hold flood insurance before the fire). Claimants located in non-participating NFIP communities are not eligible for coverage through the NFIP, although they may be eligible for a reimbursement of a private flood

insurance policy through the Claims Office. The following are non-participating communities in proximity to the fire and subsequent flooding:

- Village of Eagle Nest (Colfax County)
- Village of Pecos (San Miguel County)
- Village of Mosquero (San Miguel/ Harding County)
- Village of Wagon Mound (Mora County)
- Picuris Pueblo (Taos County)
- Taos Pueblo (Taos County)

Claimants with property outside of Mora and San Miguel Counties but in proximity to the burn scar may be eligible, but will need to demonstrate a reasonable fear of heightened risk of flooding on a case-by-case basis. This could include documentation, such as photos or evidence of damages, that a claimant's property experienced flooding or may experience future flooding as a result of the fire due to hydrophobic soils, or other changes to the landscape.

If the claimant filed an insurance claim under an existing flood insurance policy for losses resulting from the fire and received payment that fully covered those losses, the Claims Office can pay the claimant's insurance deductible cost as a separate line item.

Eligible claimants have the following two options for securing flood insurance through the Claims Office:

1. Five-years of National Flood Insurance Program (NFIP) coverage, with premiums paid directly by the Claims Office:³³
 - Eligible claimants will receive up to five years of NFIP coverage which will be renewed on an annual basis. Claimants will receive annual renewal notices directly from the NFIP.
 - The Claims Office must pay for all flood insurance premiums by the statutory deadline of May 31, 2024. Because of this deadline, Claimants should submit all requests for NFIP coverage, by April 1, 2024, to allow time for processing.

³³ Section 104(d)(4)(C)(viii) of the Act, Pub. Law 117-180, 136 Stat. 2169, requires that a premium for flood insurance must be required to be paid on or before May 31, 2024, to be eligible for compensation. Recognizing that the flood risk from fire will extend beyond May 31, 2025, the Claims Office coordinated with NFIP to allow for an extended flood insurance policy term available only for properties affected by the fire that provides coverage for up to five years.

Note that this deadline is distinct from the deadline to submit a NOL or amended NOL.

- Claimants may submit claims for the deductible of any losses incurred before the deadline to file a NOL on November 14, 2024, or an amended NOL by November 14, 2025. Thereafter, claimants will be responsible for paying the deductible on any losses incurred under their flood insurance policies.
- Per the Claims Office Director, claimants with properties in San Miguel and Mora counties have a reasonable fear of heightened flood risk as a result of the fire. Claimants must prove they own or rent property in the area impacted by the fire or post-fire flooding and demonstrate that they have a reasonable fear of heightened flood risk. Claimants may be eligible for flood insurance, whether or not they claim losses related to property.
- The Claims Office will purchase new NFIP policies for eligible claimants with a reasonable fear of heightened flood risk who did not have, and were not required to have, flood insurance prior to April 6, 2022 (e.g., required as part of a mortgage requirement or obtain and maintain requirement stemming from a previous disaster, or voluntarily purchased prior to the fire).
- Coverage amounts offered by the Hermit's Peak/NFIP policies:
 - Homeowners can be insured up to \$250,000 for the structure and up to \$100,000 for building contents.
 - Residential renters can insure contents up to \$100,000.
 - Non-residential property owners can insure a structure for up to \$500,000 and its contents for up to \$500,000.
 - Non-Residential renters can insure contents up to \$500,000.
 - Deductibles will be \$2,000 for buildings and \$2,000 for contents.
- Claimants can obtain separate policies for multiple structures on a property provided the structures are insurable under the NFIP³⁴ and have a replacement cost value greater than the deductible (\$2,000).
- Eligible claimants can only receive the five years of NFIP coverage through the Claims Office and not through a private or Write-Your-Own (WYO) company.
- Claimants will receive all communications and information regarding the policy directly from the NFIP, including the declarations page and annual renewal notices.

³⁴ For more information on general building eligibility, consult the NFIP Flood Insurance Manual: [Current Flood Insurance Manuals | FEMA.gov](#).

- If the current policy holder sells the insured structure during the five-year time period, the in-force policy can be transferred to the new owner.
2. Claimants are eligible for reimbursement of a previously purchased policy (purchased after April 2022) if they have a reasonable fear of heightened flood risk due to the fire:³⁵
- Reimbursement of an NFIP policy, purchased either from a participating WYO NFIP company (or multiple policies for multiple structures on a property), or from the NFIP Direct program;
 - Reimbursement of a policy purchased through the private insurance market (or multiple policies for multiple structures on a property);
 - Reimbursement for the purchase of both NFIP and private insurance flood policies if they have a combination of the two.

Claimants seeking reimbursement for a previously purchased policy must have paid the premium for the policy by May 31, 2024, and the payment must have been due on or before May 31, 2024, to be eligible. The claimant can file a NOL for the reimbursement any time before the deadline to submit a NOL (November 14, 2024) or an amended NOL (November 25, 2025).

Donations to Survivors of the Fire

The Claims Office will compensate claimants for the cost of merchandise, use of equipment, or other non-personal services valued at cost, directly or indirectly donated to survivors of the fire between April 6, 2022, and November 14, 2022. Compensation is not available for cash donations or time spent or hours volunteered. Donations from individuals or non-profits between April 6, 2022, and November 14, 2022, are not considered a duplication of benefits and do not need to be disclosed to the Claims Office.

Please refer to **Hosting Fire Evacuees** under Relocation and Evacuation for more detail on donations from hosts.

³⁵ 44 CFR § 296.21(e)(2).

Heightened Risk Reduction

Claimants are eligible for the reimbursement of reasonable costs incurred to implement measures to reduce the risk of wildfire, flood, or other natural hazards in and around the burn scar to the level of risk prevailing before the fire.

Claimants seeking risk reduction compensation must incur the costs for any risk reduction project(s) by November 14, 2025.³⁶ The request can be for risk reduction activities already completed by the claimant, or the claimant may request assistance from the Claims Office to determine the most appropriate risk reduction options for the property. The Claims Office may provide risk reduction information for certain types of claims, such as home reconstruction and damage incurred from post-fire flooding, even if claimants do not include risk reduction on their NOL, to ensure claimants are aware of opportunities to reduce risk to their property. Risk reduction is a voluntary activity for which claimants may receive compensation in addition to their other losses.

To receive compensation for risk reduction activities, the claimant must submit a NOL to the Claims Office on or before November 14, 2024. The NOL can be amended to include risk reduction no later than November 14, 2025.

Navigators will discuss risk reduction opportunities and the process for receiving risk reduction reimbursement or compensation. To receive advanced payments for risk reduction projects, claimants will be responsible for providing a risk reduction proposal as an attachment to their POL. The risk reduction proposal must include a short description of work, an itemized list of cost estimates, and a project schedule with an estimated date of completion. Claims Office staff may assist claimants in completing their proposal, but it is ultimately the claimant's responsibility to complete and submit the proposal to the Claims Office for consideration. To verify completion of the risk reduction project, the Claims Office will require the claimant to document that the project was completed in alignment with the originally proposed scope of work. This documentation could include a signed affidavit from the claimant and photos of the completed activity. Depending on the scope and cost of the risk reduction activities, the Claims Office may also conduct a site visit to verify the completion of the risk reduction activity in accordance with the approved proposal.

For examples of eligible project types and more information on the procedures related to risk reduction funding, please refer to the **Risk Reduction** section of this document.

³⁶ Section 104(d)(4)(C)(vii) of the Act, Pub. Law 117-180, 136 Stat. 2169.

Private Property Debris Removal

Claimants may be eligible for compensation for private property debris removal costs not eligible under FEMA PA or for properties that are outside FEMA PA's declared areas. Claimants should identify the specific properties or areas of properties where private property debris removal activities will take place or have occurred. The claimant does not need to wait for Claims Office approval to start work. Compensation may include the cost of removing hazardous materials, vegetative debris, construction and demolition debris, sand, mud, silt, gravel, rocks, boulders, white goods, and vehicle wreckage deposited or damaged by the fire or cascading impacts.

Compensation may be based on reasonable actual costs if the claimant can provide substantiating documentation. Claimants must provide reasonably available documentation, including, but not limited to invoices, receipts, pre- and post-removal photographs, contracts, or estimates.

If the work was completed by the claimant, the Claims Office can calculate compensation amounts for the labor based on the number of hours spent on debris removal using a standard rate. Claimants can also seek compensation for any contracted work, equipment rented, transportation costs, or disposal fees associated with the debris removal by providing supporting documentation such as receipts or invoices.

Relocation and Evacuation

Claimants may be eligible for evacuation costs based on the following evacuation dates (beginning of evacuation date – residents allowed to return date):

- **Mora County:** April 22, 2022 – June 26, 2022
- **San Miguel County:** April 10, 2022 – June 22, 2022
- **Colfax County:** May 26, 2022 – June 1, 2022

The evacuation dates listed above were provided by local county authorities (Mora County Sheriff's Office, San Miguel County Emergency Manager, and Colfax County Emergency Management) as the period of evacuation during which claimants may have incurred costs and/or losses associated with evacuation. Claimants are eligible to receive compensation for evacuation costs regardless of whether they incurred those costs as a result of a mandatory or voluntary evacuation. Compensation for evacuation costs outside of these dates may be available for those unable to return to their homes or with ongoing needs, including access issues, ongoing flooding or safety concerns.

Examples of possible costs include but are not limited to the expenses listed below:

Travel Expenses During Evacuation Period

Expenses incurred for increased travel or increased commuting during the evacuation period and immediate recovery period, April 6–August 31, 2022, that would otherwise not have been incurred, may be eligible for compensation.

Lost Wages and Unscheduled Leave During Evacuation

Claimants who lost wages as a result of the fire during the period of April 6–August 31, 2022, may be eligible to be compensated for those wages. Lost wages may have occurred due to required or voluntary evacuations, road closures or access challenges, business closures or reduced hours of operation due to impacts from the fire response, or unscheduled leave taken during the fire (employer charged the claimant for the time used). The Claims Office will not reimburse claimants for time taken off from work outside of the April 6–August 31 timeframe, including time taken off for claims preparation.

Food Expenses During Evacuation

Claimants may be eligible for reimbursement for food costs associated with the evacuation. Eligible food costs may include the meal costs incurred during the time the claimant was evacuated or any food loss the claimant experienced as a result of evacuation or loss of power. The claimant can choose to be compensated for these food costs based on estimates or actual costs that can be substantiated with supporting documentation, or claimants can accept the standard rate calculation provided by the Claims Office.

Items Purchased During Evacuation

Claimants that had to evacuate may be entitled to reasonable compensation for either the rental or purchase of necessary items, since it may not have been possible to take their possessions with them. Claimants must provide documentation, such as receipts or invoices, or estimates for items of similar kind and quality.

Fees for Storage Units or Storage of Personal Property

Costs of renting storage units for property during evacuation or subsequent displacement may be eligible for a period of up to six months and may be extended on a case-by-case basis. Claimants must provide documentation of their rent payments for compensation.

Rental of Vehicles or Equipment

The Claims Office may reimburse claimants for costs related to the rental of vehicles or equipment to support the movement of livestock, property, people, or other items during

evacuation and its immediate aftermath. Claimants must provide rental receipts or estimates from the rental company for compensation.

Hosting Fire Evacuees

The Claims Office may reimburse individuals for some costs incurred for hosting evacuees as a donation.³⁷ Eligible donation costs associated with hosting evacuees may include increased utility usage and the increased consumption of household goods. Host time and personal services are not eligible for compensation.

The evacuee's residence must have been uninhabitable or inaccessible due to restrictions placed by federal or state, local, tribal, or territorial governments (i.e., mandatory evacuation orders), or due to access impediments or utility outages disrupting the functionality of the residence.

Hosts will be required to submit a NOL to be compensated.

Temporary Housing Expenses

The Claims Office may compensate homeowners whose homes were destroyed by the fire for rent or other costs associated with temporary housing as long as the homeowner can demonstrate that active measures are being taken to move forward with the rebuilding of the structure (e.g., applies for a building permit, pays an architect to draw plans, does site preparation work, awaiting compensation to rebuild). Compensation for temporary housing can be made as reimbursements or in advance as appropriate.

The Claims Office may compensate renters whose residences were destroyed for up to 12 months to compensate for the difference between their prior and current rent, based on comparable housing size and type. The Claims Office can extend compensation for rent payments for good cause on a case-by-case basis (e.g., timing of rebuilding efforts, inability to find suitable quarters, unusual circumstances, personal hardships caused by the fire, etc.). Renters who evacuated but returned to their residence may be eligible for evacuation and relocation costs during the time they were not able to live in their permanent residence.

Claimants may also be eligible for compensation for costs associated with having uninhabitable homes, either owned or rented, due to damage or evacuation. Claimants must choose either compensation for costs associated with temporary housing or for

³⁷ Expenses eligible for donations are identified in 44 C.F.R. § 296.21(e)(4) and are limited to the cost of merchandise, use of equipment or other non-personal services, and are valued at actual cost.

uninhabitable home costs but cannot claim both. The Claims Office can compensate for mortgage costs, taxes, homeowner association fees, and other costs that claimants may be still required to pay for homes or rentals that they could not inhabit during an evacuation. This compensation may also be available for second homes that homeowners could not access or use as vacation homes or rentals during the fire or immediate recovery. Compensation will only be provided for the timeframe the home or rental could not be accessed and must align with community evacuation dates.

Medical Expenses

Claimants can submit a claim for medical expenses from the fire that include, but are not limited to doctor visits, hospital stays, mental health treatment, insurance deductibles and co-pays, pharmaceuticals, transportation expenses related to medical care, and other fees and expenses. There are two claims under this section with specific regulatory guidance, as outlined below.

Psychological Care

The Claims Office may reimburse claimants for reasonable out-of-pocket treatment costs for mental health conditions, including addiction treatments, resulting from, or worsened by the fire. Compensation is available from the Claims Office for treatment between April 6, 2022, and November 14, 2024. Conditions identified before November 14, 2024, may be eligible for advanced payments past this date with documentation showing treatments are ongoing and identifying the period during which continued treatment will be required.

Medical Care for Personal Injury

The Claims Office Director recognizes that claimants may have suffered personal injury as a result of the fire or subsequent events related to the fire and authorizes compensation as follows. The Claims Office may reimburse claimants for reasonable out-of-pocket treatment costs for personal injuries resulting from the fire. The Claims Office may provide reimbursement for treatment received between April 6, 2022, and November 14, 2024. Conditions identified before November 14, 2024, may be eligible for advanced payments past this date with documentation showing treatments are ongoing and identifying the period during which continued treatment will be required.

Claimants must provide documentation to prove the medical expenses are directly related to injuries resulting from the fire. This supporting documentation must include a note from a medical professional. The medical care must be provided by a licensed provider. Documentation for costs associated with the care or specific injuries may include receipts

for the required hospital stays, deductibles and co-pays paid by the claimant, and costs associated with prescriptions or medical equipment.

Lost Interest Income / Interest Paid

The Claims Office may determine that a claimant is eligible for compensation for any lost interest income, or any interest paid, if the loss occurred or interest accrued due to costs incurred to replace or repair damages from the fire.

Lost Interest Income on Funds Withdrawn from Personal Accounts

If a claimant lost interest income on funds withdrawn from personal interest-bearing accounts (e.g., savings, certificates of deposit, etc.) due to using those funds to recover from the fire and associated impacts, the Claims Office may determine that the claimant is eligible to be reimbursed for that lost interest income from the date of withdrawal of funds until compensation is awarded by the Claims Office. Compensation will not be awarded for speculative claims.

Interest Paid on Credit Card Charges or Personal Loans Obtained for Repairs

If a claimant obtained a personal loan or incurred charges on a credit card, the claimant may be able to claim compensation for interest paid on that portion of the personal loan or credit card charges that were used for costs related to the fire. Compensation may be available for interest fees from the date such loan or charges were incurred until the date compensation under the Claims Office is awarded.

5.4 Business Losses

The Claims Office may provide compensation for losses related to a claimant's business, including, timber, crops, and other natural resources; business interruption losses; overhead costs; employee wages for work not performed; and loss of business net income. Informal businesses are also eligible for compensation for crafts, trades, subsistence, or the arts, but must provide documentation to show income received from the informal business.

Claimants with business losses should provide copies of their income tax returns. If they decline to submit them, the Claims Office may deny compensation.³⁸

³⁸ 44 C.F.R § 296.30(a).

Business Interruption

The Claims Office will evaluate each business claim individually, using the method that best applies to the situation to determine the time period to calculate business interruption losses. The method used will be based on what is most reasonable for the type of business, taking into account various factors such as whether the business is retail or product based. If the business has seasonal variations, a comparable time frame should be used, (e.g., the same month for the past three years as opposed to every month during the previous three years).

If a claimant seeks compensation for business interruption for actual damages for a set period of time (e.g., two weeks following the fire), the loss may be calculated based solely on the past history of the business, and the specified period of time. Future increases in income attributable to the fire need not be taken into account. However, if the claimant is or will be requesting loss of future projected business earnings, then the subsequent increase will be taken into account when considering projected loss.

Start-up Businesses

The Claims Office will consider a number of factors when evaluating business loss claims for a start-up business, including if there were business plans or loans secured, inventory purchased, present and past income attributable to the business, and contracts in place for purchase or distribution rights. Where the loss is entirely speculative because there is no revenue history and a reasonable expectation of profits cannot be demonstrated, the Claims Office cannot compensate claimants for lost profits or the value of their lost time. The Claims Office can compensate claimants for physical damage to the business assets or legitimate continuing business expenses such as rent and utility services if those expenses have not been previously compensated under other loss types.

Discontinuing Expenses

When calculating both short-term and long-term business losses, the Claims Office will deduct clearly identifiable discontinued expenses, such as labor costs not paid, or the cost of goods/materials not purchased.

Future Business Losses

The Claims Office can compensate for projected future business losses and will evaluate them on a case-by-case basis depending on the nature of the loss, documentation available, and projected length of future losses.

5.5 Government and Private Non-Profit Losses

The State of New Mexico; local and tribal governments, including special districts under New Mexico state law; and certain private non-profit organizations³⁹ that suffered losses in the declared areas are required by regulation to file a request for public assistance with FEMA PA for damaged facilities, work performed, and costs incurred as a result of the fire and subsequent flooding. Compensation will not be awarded by the Claims Office for losses or costs that are eligible under FEMA PA.⁴⁰

Entities that must submit a request for public assistance with FEMA PA before claims can be assessed by the Claims Office include:

- The State of New Mexico
- Tribal Nations
- Local governments
 - Counties
 - Municipalities, cities, towns, boroughs, and townships
 - Local public authorities
 - School districts
 - Intrastate districts
 - Councils of governments (regardless of whether incorporated as nonprofit corporations under State law)
 - Regional and interstate government entities
 - Agencies or instrumentalities of local governments
 - State recognized tribes
 - Special districts established under state law (including acequias)
- Private non-profit organizations⁴¹
 - Critical (those that provide utility, emergency, medical and education services)

³⁹ Public Assistance Program and Policy Guide, Version 4, 2020. Pages 43-47.

⁴⁰ 44 CFR § 296.21(f)(2).

⁴¹ Public Assistance Program and Policy Guide, Version 4, 2020. Pages 45-47.

- Non-critical (those that provide certain noncritical, essential social services)

PA and the Claims Office will review RPAs and projects to identify ineligible applicants or costs under PA. For ineligible applicants or costs, PA will issue a memo determining ineligibility. To ensure PA applicants retain their appeal rights for any ineligible costs under PA, the Claims Office will accept claim submittals for costs being appealed, however, the Claims Office will take no action to implement any determination until PA issues its decision on the appeal to avoid duplication of funding. Costs that PA applicants decide to submit to the Claims Office will be subject to review, eligibility assessment, and requirements under the Act. To begin the claims process, an authorized official of the governmental entity must submit and sign the NOL.

The Claims Office may compensate all or a portion of the costs if it determines the claim is reasonable and allowable based on all available information and documentation provided by the claimant. Compensable claims for governmental entities are limited to eligible losses authorized by the Act.

The Act allows payment of actual compensatory damages that are reasonable.⁴² Costs will be evaluated for reasonableness using estimation tools and provided documentation.

Ineligible Costs under FEMA PA

The items listed below are identified by FEMA PA policy as ineligible costs. These costs do not have to go through the FEMA PA process. Claimants may submit claims for these losses directly to the Claims Office for evaluation:

- Loss of tax revenue/loss of government revenue
- Tax assessments to re-assess real property values
- Flood insurance premiums
- Principal or interest on recovery loans
- Compensation for damaged facilities outside of PA declared areas including the loss of cultural facilities, and risk reduction
- Compensation for cosmetic or aesthetic vegetation in public parks or facilities
- Straight-time for budgeted permanent employees or budgeted part-time or seasonal employees

⁴² 44 C.F.R 296.21(a).

- Costs incurred by privately-owned tribal corporations⁴³

Fire-Related Staffing

Costs ineligible for FEMA PA but associated with emergency staffing due to sustained response and recovery efforts directly related to the fire and subsequent flooding may be eligible for compensation by the Claims Office. Governmental entities will be required to submit a NOL and adhere to procedural requirements discussed below for completing a claim.

Claimants can submit labor costs incurred for certain types of employees performing claim-related work and functions necessitated by the fire and subsequent flooding and not eligible under FEMA PA to the Claims Office. Labor hours must be clearly associated with a specific claim or disaster-related activity.

Claimants need to submit the following to support labor costs claimed (not an all-inclusive list):

- For each personnel, claimant must provide:
 - Name
 - Job title and function
 - Type of employee (e.g., full-time exempt, full-time non-exempt, part-time, temporary, etc.)
 - Pay rates and fringe benefit rate
 - Days and hours worked
 - Description of work performed with sample of daily logs/activity reports.
- Summary of actual costs
- Timesheets (representative sample required when requested)
- Fringe benefit calculations
- Pay policy

The claimant's labor policy or payroll policy should discuss the types of labor and the breakdown of personnel responsibilities. The Claims Office will review the policies to determine eligibility under the Act. Overtime for exempt, budgeted employees is ineligible unless otherwise allowed by claimant's labor policy already in place before the fires.

⁴³ 44 C.F.R. §§ 206.201(h).

Other Federal Agency Grants Funding Match

The Claims Office cannot fund the cost share/match requirement for a recipient's portion of grants funded by another federal agency, including grants for capacity building or preparedness.⁴⁴

Acequias

Acequias recognized under New Mexico law as political subdivisions (community acequias) that suffered losses in the affected or declared areas are required to file a request for public assistance with FEMA PA for damage to eligible facilities, work performed, and costs incurred as a result of the fire.⁴⁵ Compensation will not be awarded under the Act for losses or costs that are eligible under PA. Costs that are found ineligible by FEMA PA can be referred to the Claims Office by an acequia's authorized representative for consideration.

The Claims Office requires that privately owned (non-community) acequias, or acequias not recognized under New Mexico law as a political subdivision, submit a request for public assistance to FEMA PA first for an eligibility determination prior to submitting a NOL to the Claims Office.

The Claims Office may compensate for damages including: the cost of debris clearance and removal; removal of hazardous trees, materials or soils; erosion assessment and treatment; temporary stabilization; repairs or restoration of damaged facilities; and replacing damaged contents of structures.

Acequias seeking compensation for costs incurred as a direct result of the fire may be compensated based on actual costs if substantiating documentation is provided to support the claim. In the absence of any formal documentation, claimants must provide reasonably available documentation, which may include, but is not limited to historical records, meeting minutes, written affidavits signed by witnesses and authorized representatives, and photographs and/or videos to substantiate the claim.

⁴⁴ 2 C.F.R § 215.23(a)(2).

⁴⁵ Acequias, or community ditches, are recognized under New Mexico law as political subdivisions of the state. Many of the state's acequia associations have been in existence since the Spanish colonization period of the 17th and 18th centuries. Historically, they have been a principal local government unit for the distribution and use of surface water. Link: [Acequias/Community Ditches: Interstate Stream Commission \(state.nm.us\)](https://www.state.nm.us/interstatestreamcommission/acequias-community-ditches).

In restoring or repairing acequias, organizations should be aware of all local and state regulations and requirements related to work performed.

Cascading Impacts for Government Claimants

Costs incurred by governmental entities addressing cascading impacts and ongoing impacts as a result of the fires such as flash floods, mud and debris flows in the affected areas continue to be assessed by FEMA PA on a case-by-case basis. Costs associated with necessary services required to sustain response and recovery efforts directly related to the fire and subsequent flooding may be eligible for compensation by the Claims Office as long as they are directly attributable to the fire.

Governmental entities may submit a NOL for cascading impacts and must submit supporting documentation to justify the claim.

5.6 Future Financial Losses

Due to the long-term effects of the fire, in some specific cases future financial losses may be compensable. The Claims Office will evaluate these types of claims on a case-by-case basis depending on the nature of the damages and type of loss. Documentation provided must include how the loss directly relates to the fire and the proposed period of time for which compensation is being requested into the future.

Future losses are limited to costs directly associated with allowable damages under the Act. Advanced payments may be available for out-of-pocket expenses for extended treatment of mental health conditions, and loss of earnings. These costs must be directly caused by the fire; the burden of proof justifying costs as necessary and reasonable remains with the claimant.⁴⁶ The Claims Office will evaluate these claims using the following method:

- A claimant can file a NOL for a future loss claim with supporting documentation clearly identifying the cause of the future loss and the factors used to quantify the costs being claimed.
- The claimant can delay filing a NOL until closer to the period during which the projected losses are anticipated to occur. This will enable more accurate documentation for the claim to be accumulated over time.

⁴⁶ 44 CFR 296.30(a).

5.7 Reimbursement of Expenses to Submit a Claim

The Claims Office will reimburse claimants for the reasonable costs they incur in providing documentation requested by the Claims Office. This includes appraisals or other third-party opinions that the Claims Office requests or deems necessary to determine the amount of the claim. The Claims Office will not reimburse claimants for the cost of appraisals or other third-party opinions not deemed necessary by the Claims Office.⁴⁷

The Claims Office will provide a lump sum payment for incidental expenses incurred in claims preparation to all eligible claimants. The Claims Office will automatically add this lump sum payment onto the claimant's final payment amount, and it will be listed as a line item titled "claims preparation expenses" on the final LOD. The amount of the lump sum payment will be at minimum, the greater of \$150 or 5% of the total compensatory damages and insurance proceeds recovered by the claimant (not including the lump sum payment or monies reimbursed for the purchase of flood insurance). This lump sum payment for claims preparation expenses is limited to, and will not exceed, \$25,000. Subrogation claimants and claimants who only submit a claim for flood insurance premium(s) will not be eligible.⁴⁸

5.8 Exclusions

Punitive Damages and Claimant Costs

Claimants may not recover from the Claims Office: punitive damages, statutory damages, interest on claims, and adjusting costs incurred by an insurer or other third party with the rights of a subrogee that may be owed by a claimant as a consequence of receiving an award.⁴⁹

Noneconomic Damages

Noneconomic damages, including pain and suffering, annoyance, and emotional distress are not compensable under the Act.⁵⁰

⁴⁷ 44 C.F.R. § 296.31.

⁴⁸ 44 C.F.R. § 296.31(b).

⁴⁹ 44 C.F.R. § 296.31(b).

⁵⁰ 44 C.F.R § 296.21(b).

Attorney or Agent Fees

Fees paid to attorneys or agents to assist claimants in submitting a claim to the Claims Office are not eligible for compensation.

The Act provides that no attorney or agent (such as a public adjuster) may charge for their services in making a claim under the Act in excess of 20% of the amount of any payment on a claim under the Act.⁵¹ No amount of this fee is eligible for reimbursement.

Loss of Non-Proprietary Uses

The Claims Office cannot compensate individuals for the loss of interests or conveniences that are not derived from the individual's ownership or leasehold rights in the damaged property. Examples of such losses that are not compensable include claims for increased housing costs by renters whose monthly rate or term of tenancy was not guaranteed by an existing lease at the time of the fire.

Lost Interest on Income from Lost Opportunities or Speculation

The Claims Office will not reimburse a claimant for income that may have been gained in a speculative market or from a potential opportunity lost because of the fire. Only monetary damages that are real, substantial, and just, for actual or real losses, are compensable.⁵²

⁵¹ Section 104(j)(1) of the Act, Pub. Law 117-180, 136 Stat. 2169; 28 U.S.C. § 2678.

⁵² 44 C.F.R. § 296.31(b).

6. RISK REDUCTION

Risk reduction activities decrease the impact of disasters and potential hazards. The Claims Office may compensate claimants for reasonable efforts to reduce increased risks to pre-fire levels. Costs for risk reduction activities must be incurred no later than three years after the rule was first promulgated which is November 14, 2025,⁵³ and risk reduction projects must be completed by the following year, November 14, 2026. Activities for risk reduction funded within this three-year period may be ongoing, but additional funding will not be provided beyond what is incurred within the eligible period.

Risk reduction funding differs from other forms of compensation available under the Act because the Claims Office must verify that the claimant completed the funded risk reduction activities within the timeframe set by Claims Office policy. There is no minimum or maximum award amount for risk reduction projects.

6.1 Eligibility for Risk Reduction

Claimants may be eligible for risk reduction compensation if the risks facing their property (e.g., post fire flooding) have increased because of the fire. Risk reduction activities may be completed at the homeowner/parcel-scale (private property) or at the community-scale (land and public facilities). Risk reduction projects on multiple parcels of private land (e.g., a neighborhood organization) also may be eligible for compensation for risk reduction. The Claims Office will evaluate activities in the context of holistic watershed restoration and mitigation efforts, so that, to the extent feasible, homeowner/parcel-scale and community-scale activities support holistic risk reduction for the community. The Claims Office expects most risk reduction claims to be for work that is not yet started or completed. Claimants that completed risk reduction projects immediately after the fire to address post-fire flooding risks can ask the Claims Office to review completed projects to determine whether risk reduction compensation is appropriate.

The suggested eligible project types for homeowner/parcel and community-scale actions were informed by FEMA's Hazard Mitigation Grant Post-Fire Program,⁵⁴ FEMA guidance on

⁵³ Section 104(d)(4)(C)(vii) of the Act, Pub. Law 117-180, 136 Stat. 2169.

⁵⁴ [Hazard Mitigation Grant Program Post Fire | FEMA.gov](#).

protecting homes from flooding,⁵⁵ as well as the Insurance Institute for Building and Home Safety (IBHS) Wildfire Prepared Home program.⁵⁶

The Claims Office will encourage claimants to consult their local County Planning & Zoning and Code Enforcement offices. Claimants are expected to comply with local building codes and secure the necessary construction permits. Claimants may be asked to provide information regarding any applicable construction permits obtained for their risk reduction projects.

6.2 Eligible Work- Homeowner/Parcel Scale Actions

The following list provides examples of risk reduction activities on private property that may be eligible for Claims Office compensation. The Claims Office will evaluate all activities individually to determine eligibility. Actions which may result in impacts beyond the parcel level will be evaluated so that risk reduction activities do not result in unintended effects to neighboring properties and ultimately contribute to a larger vision for holistic watershed restoration and community mitigation. Risk reduction projects must reduce the risk from a natural hazard heightened by the fire to pre-fire levels.

Wildfire Risk Reduction

- Restoration and reforestation of fire-adapted vegetation types within 50 feet of the home
 - Reseeding ground cover
 - Planting grass to prevent spread of noxious weeds
 - Mulching with straw or chipped wood
- Vegetative thinning, hazardous tree removal, and noxious weed abatement within 50 feet of the home
- Replace damaged roof, or for rebuilds, install a new roof, with a Class A fire rated roof and ignition resistant materials such as asphalt shingles, metal roofs, and masonry tiles that include bird stops to prevent debris pile up
- Enclose or protect eaves and soffits on the exposed underside with noncombustible or ignition-resistant materials or 2-inch lumber (e.g., 2"x4" or 2"x6", NOT plywood)

⁵⁵ [Protect Your Home from Flooding Low-cost Projects You Can Do Yourself \(fema.gov\)](#).

⁵⁶ [Wildfire Prepared Home, a Program of IBHS – Resources](#).

- Install or replace vents with either (1) corrosion-resistant and ember- and fire-resistant materials (such as galvanized steel with intumescent coating); OR (2) noncombustible materials and covered with 1/8-inch or finer metal mesh
- Install noncombustible gutters and metal gutter guards
- Create and maintain defensible space around a structure to eliminate fuels and act as a buffer to help lower the chance fire will spread to the structure; this may include techniques for noxious weed abatement and vegetative thinning
- Repair damaged decks or install replacement decks with noncombustible materials such as metal and install noncombustible, corrosion-resistant 1/8-inch or finer mesh around the outer edge of the deck from the walking surface to the ground to prevent ember intrusion
- For damaged or destroyed accessory structures or outhouses, ensure these structures meet the same construction standards as the primary residence; as recommended by the Insurance Institute for Building and Home Safety, no more than three of these structures should be located within 30 feet of the home
- Ensure all exterior windows, skylights, and glass openings within doors are multipaned with a tempered outer pane or has glass blocks (windows only)
- Inspect exterior doors and cladding for combustibility or for damaged or destroyed doors, replace with noncombustible materials, including storm doors and cladding
- Inspect and install ignition resistant siding such as rock wall, stucco or cement board
- Replace damaged or destroyed shutters with noncombustible materials

Post-Fire Flooding Risk Reduction

Temporary flood protection measures which may include:

- Sandbags
- Portable flood gates or shields
- Inflatable floodwalls
- Flood skirts

Installation of flood protection measures for sewer or utility systems which may include:

- Well water contamination prevention to include testing and repair
- Anchor fuel tanks
- Install drain plugs for basement floor drains to prevent sewer backups or install sewer backflow valves for all pipes entering the building

- Seal foundation and basement walls with mortar and masonry caulk or hydraulic cement
- Install a sump pump to pump groundwater away from the home
- Private property culvert repair
- Integral ground stabilization treatments to culverts and pipes
- Reduction of impervious surfaces to reduce stormwater runoff; options could include rain gardens, vegetated swales, or pervious pavements that absorb water
- For damaged or destroyed homes, use of flood-resistant building materials for rebuilding or repairing homes, which may include:
 - Replace wooden floorboards and carpets with ceramic tile, vinyl, rubber, or other flood-resistant materials
 - Replace internal walls and ceilings with flood-resistant material such as lime plaster, cement board, concrete, or pressure-treated and decay-resistant wood
 - Replace wooden doors and window frames with metal or other flood resistant options
 - Raise electrical system components; increase the height of electric service panels (fuse and circuit breaker boxes) and all outlets, switches, and wiring

Land-based flood risk reduction activities which may include:

- Lot grading improvement, which may include building up any sunken areas around the foundation, digging small depressions to properly channel water, and otherwise improving the yard so that it slopes away from the building
- Post-wildfire hillslope stabilization treatments including erosion barriers
- Post-wildfire channel treatments

Risk Reduction and Future Losses

The Claims Office encourages claimants to pursue eligible risk reduction projects that best mitigate the potential for future losses. The Claims Office will review claims for future losses from claimants that also pursued risk reduction projects to evaluate the extent that the selected risk reduction project could reduce the projected future losses. The Claims Office may also evaluate whether a claim for a projected future loss could be resolved through an appropriate risk reduction project and will discuss this opportunity with the claimant.

A request for risk reduction measures can support reopening or supplementing a claim.⁵⁷ The deadline for filing the request to reopen a claim is not later than November 14, 2025, which is the same deadline to incur risk reduction costs. Claimants should consider these deadlines when prioritizing their claims for certain loss types.

6.3 Eligible Work- Community Scale Actions

The Act includes Tribal Nations, corporations, tribal corporations, partnerships, companies, associations, counties, townships, cities, states, school districts and other non-federal entities that suffered injuries from the fire as eligible claimant types. These entities are also eligible for compensation to reduce risk to pre-fire levels. Projects could address risks to public facilities or land.

Risk Reduction for Public Facilities

Claimants may be eligible for risk reduction compensation for public facilities that have a heightened risk due to the fire and subsequent flooding. Eligible projects must reduce risks to pre-fire levels.

Entities that have incurred risk reduction costs or those with risk reduction proposals for facilities under their legal responsibility must first submit a project through FEMA PA for an eligibility assessment under the Stafford Act. Claimants can submit a POL to the Claims Office for risk reduction proposals or costs that are deemed ineligible under FEMA PA.

Entities, organizations or private nonprofit organizations that are legally responsible for facilities used by the public and are not eligible under FEMA PA can submit their risk reduction proposals or costs directly to the Claims Office.

Nature-based Risk Reduction Activities

The Claims Office will evaluate all requests for technical feasibility and effectiveness at reducing the risk to pre-fire levels. Risk reduction measures for nature-based activities that reduce risk to pre-fire levels may be eligible for compensation and examples of these actions are listed below:⁵⁸

⁵⁷ 44 C.F.R. § 296.21(e)(5); 44 C.F.R. § 296.35.

⁵⁸ Community scale risk reduction actions were informed by the [New Mexico Programmatic Environmental Assessment \(PEA\)](#) which was developed by FEMA Region 6 in 2022 to provide the basis for decisions to

- Implementation of nature-based watershed restoration solutions
 - Alluvial fans
- Vegetative thinning, hazardous tree removal, and noxious weed abatement
 - Community scale defensible space
 - Reducing hazardous fuels
- Restoration and reforestation of fire-adapted vegetation types
 - Reseeding ground cover
 - Planting grass to prevent spread of noxious weeds
 - Mulching with straw or chipped wood
- Restoration of riparian areas
 - Placing logs/other erosion barriers to catch sediment on slopes
- Post-wildfire hillslope stabilization treatments
- Post-wildfire channel treatments
- Post-wildfire road, culvert, and trail flow diversion treatments
 - Adding drainage dips and constructing emergency spillways
 - Installing debris traps to modify road and trail drainage mechanisms
 - Constructing straw, rock, or log dams in small tributaries to prevent flooding
- Post-wildfire ash, sediment, and debris removal and water infrastructure repairs
 - Removing standing burned trees
- Structure demolition, relocation, or alteration
 - Ignition resistant construction
- Hydraulic capacity improvements and protection of water infrastructure
 - Strengthen or harden water systems that were burned and caused contamination.
 - Modifying or removing culverts

6.4 Risk Reduction Proposal and Technical Assistance

Claimants seeking compensation for heightened risk reduction measures⁵⁹ must include the claim in a NOL filed not later than November 14, 2024, or an amended NOL filed not later than November 14, 2025.

approve a broad range of actions related to watershed resiliency and post-wildfire treatments in the State of New Mexico. The PEA is valid for five years until 2027 and can be accessed on [FEMA.gov](https://www.fema.gov).

⁵⁹ As described in 44 C.F.R. § 296.21(e)(5).

All claimants requesting advanced payments for risk reduction, including individuals, communities and government entities, are required to complete a risk reduction proposal as an attachment to a POL. The proposal should include a short description of work, itemized list of cost estimates, and project schedule with estimated date of completion. Claims Office staff may assist the claimant to complete a proposal, but it is ultimately the responsibility of the claimant to complete and submit it to the Claims Office for consideration. The Claims Office recommends that claimants use licensed contractors to complete risk reduction projects and can provide a directory of all licensed contractors through the New Mexico State Licensing and Regulation Department as a resource for claimants. Claimants seeking reimbursement for an already completed risk reduction project may use the risk reduction proposal form or provide a description of the work completed and list of itemized costs to their Navigator for review.

All claimants must incur the costs for risk reduction projects by November 14, 2025,⁶⁰ and complete project(s) for which they receive compensation by November 14, 2026. Completion is defined as the completion of all work associated with the approved statement of work including meeting all compliance requirements.

Risk reduction proposals or risk reduction projects seeking reimbursement will be evaluated for the following:

- Effectively reduces the risk to pre-fire levels;
- Follows local floodplain ordinances (if applicable); and
- Aligns with the State's long-term mitigation plan (if applicable).

Claimants may also request consultation with the Claims Office technical assistance team on the risk reduction actions that could offer the most long-term benefits for a claimant's property, assistance with completing a risk reduction proposal, and referrals to local information sources on compliance with local codes and permitting.

For risk reduction activities, construction and repairs must be coordinated with the state, local governments and Tribal Nations as needed, to allow for appropriate site-specific interpretation and modification by state and local building code officials. Claimants must follow current building codes and standards, especially for any activities that involve rebuilding or repair of a structure and its components.

⁶⁰ Section 104 (d) (4)(C)(vii) of the Fire Assistance Act.

6.5 Use of Risk Reduction Funding

Risk reduction funding for rebuilding or repairing a damaged or destroyed structure must reduce the heightened risk of wildfire, flood, or other natural disasters to pre-fire levels. Unlike most other forms of compensation, claimants must use risk reduction funding to complete the approved risk reduction measures and cannot apply it towards other recovery activities or transferred for other purposes.

A risk reduction project may be deemed ineligible by the Claims Office for a variety of reasons including:

- Activity does not effectively reduce risk to pre-fire levels;
- Project does not follow state and local permitting regulations;
- Project counteracts other risk reduction activities and local/state mitigation priorities; or
- Project has the potential to create unintended downstream effects.

If the Claims Office denies a risk reduction proposal, the claimant will be provided with a written explanation of the denial. Claimants should work with their Navigator to make any necessary modifications to their risk reduction proposal and seek approval from the Claims Office before beginning any work.

Maintenance of Risk Reduction Projects

If a risk reduction project funded through the Claims Office is damaged by ongoing post-fire events such as flooding, the claimant may submit a claim for costs associated with restoring the original function of the project. Examples of these projects that may require clean-up after flooding could include geobrigg barriers, gabion baskets, or other flood diversion structures. Claimants will need to provide documentation that the clean-up costs are associated with an event that resulted from the fire. Regular maintenance costs for projects funded by other federal agencies will not be eligible for compensation.

Verification of Project Completion

For all projects, claimants will be required to submit documentation showing that the risk reduction activity is complete and within the proposed statement of work. Documentation should include:

- Copies of any secured building or construction permits;
- Project summaries and final invoice from licensed contractors;

- Photos of the completed work; and
- An affidavit or declaration signed by the claimant verifying that the proposed work is complete.

For projects with a total cost above \$25,000, in addition to the documentation noted above, Claims Office staff may conduct a physical site inspection to verify completion of the risk reduction activity or activities.

If, during the verification phase, the activity is found to have been completed improperly, does not achieve the intended benefit, or does not adequately reduce the risk as proposed, the Claims Office may seek to recover funds from the claimant.

7. DUPLICATION OF BENEFITS

Duplication of benefits (DOB) occurs when payments and/or assistance is provided from more than one source to compensate for the same documented loss. The DOB amount may cover all or a portion of a claim. The Claims Office is legally prohibited from duplicating benefits paid from other sources, except for certain donations.⁶¹ The Claims Office is collaborating with various partner agencies to ensure claimants do not receive duplicate funding for losses previously compensated by another entity. This can include funding from other federal, state, and local sources and/or private insurance.

7.1 Sources of Potential Duplication of Benefits

Claimants who have received funds from insurance and/or other federal or state recovery programs are required to disclose those funds to the Claims Office to ensure they are not being paid for the same loss twice. Any amount already received for the same losses from other sources will be subtracted from the award except for donations or grants from non-governmental organizations or non-profits.

Insurance Compensation

The Claims Office may send payments to a claimant even before the claimant has fully settled with their insurance company. The Claims Office, however, will only pay those amounts that are not paid or will not be paid by the insurance company. If the insurance claim is withdrawn before any compensation is received, the Claims Office will provide compensation for all eligible damages.

Other Federal Financial Assistance

The Claims Office and any other federal agency cannot duplicate payment to a claimant. A duplication of benefits review will be performed by the Claims Office for every claim.

Assistance through the State of New Mexico

The Claims Office shares data with the State of New Mexico to ensure that any programs administered by the state are included in the Claims Office's duplication of benefits reviews.

⁶¹ Section 104(d)(c)(1)(C) of the Act, Pub. Law 117-180, 136 Stat. 2169.

Benefits Provided by Non-Governmental Organizations and Individuals

Gifts or donations made by a non-governmental organization, such as the American Red Cross, or an individual, other than wages paid by a claimant's employer or insurance payments, will be disregarded in evaluating a claim, and need not be disclosed by claimants to the Claims Reviewers. Such assistance is not a duplication of benefits and should not be applied to reduce the amount compensable.

7.2 Duplication of Benefits Review Process

When determining the compensation for each submitted loss, the Claims Reviewer will first verify there are no DOBs.

Claims Reviewers are responsible for examining each POL for financial, personal, and/or business losses that overlap with another form of federal financial assistance. The Claims Office and other federal agencies have Information Sharing Access Agreements in place to facilitate the sharing of information to ensure any DOB is identified. The Claims Reviewer is responsible for completing a DOB review before providing their recommendation of compensation to ensure that the Claims Office is not providing duplicate funding for the same loss.

There are two possible outcomes of the Claims Reviewer's DOB review:

- 1. Compensation is provided for the uncovered portion of loss:** If the Claims Reviewer finds that a claimant has received funds from another agency or program, but these funds do not cover the entire loss defined in their POL, then the Claims Office will recommend compensation for the uncovered portion of the loss.
- 2. No compensation due to DOB:** If the Claims Reviewer finds that the claimant has received other funds from another agency or program that has covered the entirety of the loss defined in the POL, the Claims Office will not provide compensation.

8. PAYMENTS

8.1 General

For most types of compensation, the Claims Office does not require claimants to account to the Claims Office for how they spend the funds. The exceptions to this are risk reduction activities; flood insurance premiums; certain discretionary claim payments made under the Claims Office Director's statutory authority; and repayment of SBA loans, where compensation must be used to complete the project or activity. For example, the Claims Office will compensate a claimant for the cost of replacing a burned vehicle whether the claimant chooses to replace the vehicle or not. If the replacement vehicle costs less than the amount of the estimated compensation for the lost vehicle, the claimant can retain the difference. However, if compensation is provided for an activity such as risk reduction, that activity must be completed, or compensation will not be made or will be recouped. The Claims Office provides the following payment categories:

- NFIP Payments – Payments for premiums made to NFIP Direct, unless claimants request a reimbursement for an independently purchased flood insurance policy; in those cases, the claimant will receive the reimbursement payment directly.
- SBA Loan Repayment – Payments made directly to SBA on behalf of claimants; claimants may also request the Claims Office compensate the claimant/borrower directly for their SBA loan. This option requires the claimant/borrower to then pay off the loan, including interest, to the SBA. The request to pay SBA directly must be in writing to the Claims Office.
- Risk Reduction – Payments received for risk reduction activities. Payments for risk reduction activities must only be used specifically for the intended risk reduction purposes.
- Payments for all other fire-related payments, partial or final – Payment made directly to the claimant as partial or final compensation. There are no restrictions on how funds are spent.

Taxes

The Act states that the value of compensation provided to claimants is not considered income for any purpose under federal, state or local law, including taxation.⁶²

The Claims Office includes taxes as part of the valuation criteria to determine compensation for various loss types, including sales tax, lodging taxes, and shipping taxes, among others.

Taxes required to be paid by the claimant for any other assistance outside of the Claims Office such as other federal grants, local grants, or other assistance are not compensable by the Claims Office.

Banking Information Form

Once claimants accept the compensation specified in the LOD and sign and submit the R&C form, the Claims Office requires claimants to complete a Banking Information form to receive their compensation.

Claimants accepting NFIP policies through the Claims Office or claims for the repayment of SBA loans where repayment is sent directly to the SBA do not need to complete a Banking Information form. For these types of claims, the Claims Office will pay either the NFIP or SBA directly. A Banking Information form will not be included in the LOD packages for NFIP-only or SBA-only claims. The exception to this is claimants seeking a reimbursement for an already purchased flood insurance policy, who will receive the reimbursement payment directly and need to provide both a signed R&C form and Banking Information form. Additionally, for SBA loans, claimants have the option to request that the Claims Office compensate the claimant/borrower directly for their SBA loan. This option requires the claimant/borrower to then pay off the loan, including interest, to the SBA.

An electronic funds transfer (EFT) will directly deposit the payment into a claimant's account and is the most efficient and fastest method for a claimant to receive their compensation. The U.S. Treasury requires payment by EFT. If a claimant does not have an account capable of receiving an EFT, the Claims Office can work with the claimant to assist. If there are multiple owners for a property that is subject to the claim, the Claims Office will ensure that all claimants participate in payment, either by agreeing in writing that one or more claimants will receive the payment for distribution or agreeing to a payment method.

⁶² Section 104(h)(4) of the Act, Pub. Law 117-180, 136 Stat. 2169.

Fraud Prevention Controls

The Claims Office has implemented several fraud prevention controls to mitigate fraudulent activities which collectively help the claims office detect and prevent fraudulent claims and ensure the integrity of the claims system.

- **Verification Procedures:** Claims are subject to a rigorous verification process, including cross-referencing claimant information with external databases to confirm identity and legitimacy.
- **Documentation Requirements:** Claimants are required to provide thorough documentation to support their claims, including invoices, receipts, medical records, or other relevant information.
- **Claims Audits:** Random and targeted audits of claims are conducted regularly to identify irregularities or inconsistencies in claims data.
- **Data Analytics:** Advanced data analytics tools are used to detect patterns indicative of fraud, such as unusual claim frequency, or duplicative claims.
- **Fraud Training:** Staff are trained to recognize red flags and indicators of potential fraud, equipping them with skills to detect suspicious claims.
- **Whistleblower Hotline:** An anonymous hotline is available through FEMA Fraud Investigations and Inspections Division and the Office of Inspector General is available for employees and external parties to report suspected fraudulent activities.
- **Collaboration with Law Enforcement:** Cooperation with federal and state law enforcement agencies to pursue legal action against perpetrators of fraud when necessary.
- **Regular Policy Reviews:** The Claims Office conducts periodic reviews of policies and claims procedures to identify potential weakness that could be exploited by fraudsters.

The Claims Office expects claimants to submit legitimate estimates, contract documents, and other documentation in support of a claim. The Claims Office is engaged in evaluating and paying claims based on documentation submitted by a claimant and is not engaging in negotiations. Exaggerated or inflated claims, including documentation submitted for the purpose of engaging in negotiation, may be false claims and will be referred for prosecution under applicable federal and state laws.

Claimants should be vigilant against fraudulent activities following awarded compensation. All Claims Office communications in written or email format have the official Claims Office

logo. Claimants are encouraged to call the Claims Office Helpline or their assigned Navigator to verify any requests for information that appear fraudulent.

8.2 Partial Payments

The Claims Office, at the request of a claimant, may make one or more partial payments on any severable portion of a claim that can be considered on its own without affecting any other portion of the claim. The partial payment process mirrors the overall claims process and is intended to provide claimants compensations for eligible losses while the rest of their claim progresses. As an example, if a claimant submits a partial payment claim for a vehicle that was destroyed by the fire, the claimant cannot include the loss of the same vehicle in another portion of their claim. The loss of a vehicle is an example of a severable portion of a claim that is distinguishable from other losses.

Once a claimant's NOL is received and acknowledged by the Claims Office, the claimant and their assigned Navigator will begin preparing a POL specific to the partial payment. During the 150-day timeline, the claimant can submit multiple POLs for different partial payments. **Figure 5: Partial Payments Process** below illustrates how partial payments are a continuous process. Claimants can submit POLs for multiple partial payments, as long as they are for losses that are severable from their overall claim. The intent of partial payments is to enable claimants to receive compensation to meet immediate needs while focusing on finalizing the claim.

If a claimant accepts a partial payment, they cannot appeal or arbitrate that portion of the claim, although they maintain their ability to pursue an appeal of the other parts of the claim submitted for final determination or to submit additional claims. Claimants cannot appeal the Claims Office decision on whether to provide a partial payment.⁶³ The Claims Office may deny requests for partial payments if the statutory and regulatory timeframes to finalize the claim are approaching.

⁶³ 44 C.F.R. § 296.33.

The Claims Office may make partial payments to eligible claimants while a claimant's final claim payment is being evaluated. The Claims Office recognizes that for claimants with urgent financial needs, a partial payment can provide immediate support and help claimants meet financial obligations while the remainder of the claim is being evaluated. The Claims Office may make partial payments based upon actual receipts or may base them on estimates. A claimant may receive one or more partial payments on a claim before the entire claim has been settled.⁶⁴

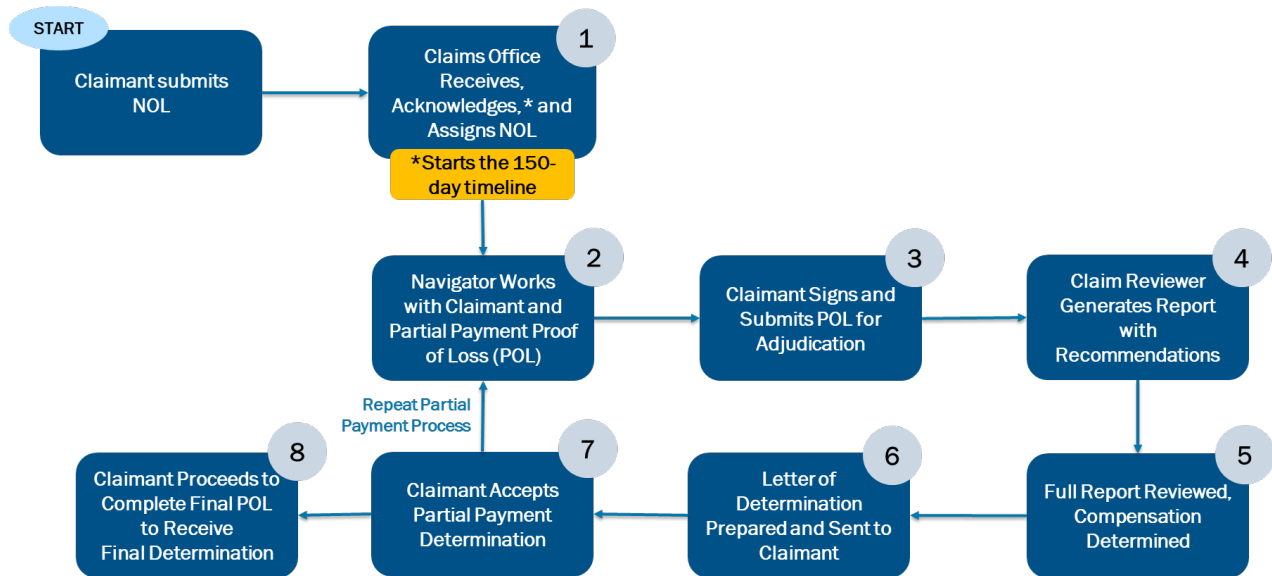


Figure 5: Partial Payments Process

In order to best adhere to the 150-day deadline for submitting a POL, claimants should submit their request for a partial payment no later than 45 days after submitting a NOL.

Eligible Losses for Partial Payment

Examples of losses that may be considered for partial payment include, and could be considered a severable loss, are listed below. These examples include, but are not limited to, the following:

Financial Losses

- Additional living expenses
- Evacuation expenses

⁶⁴ 44 C.F.R. § 296.33.

- Temporary living accommodations
- Lost wages
- Insurance deductibles
- Feed for animals during evacuation or temporary re-homing
- Medical costs for a discrete injury or care and that is not ongoing (e.g., treatment for a burn or a broken arm caused by the event)
- Removal of dead trees or other debris immediately following the fire and/or flooding event

Property Losses, such as:

- Damage to physical infrastructure
- Contents (e.g., furnishings, appliances, or personal property) not covered by insurance payments
- Replacing food stores
- Outdoor ovens
- Vehicles (including trailers and recreational vehicles)
- Solar panels
- Water wells/tanks
- Losses identified on NRCS Conservation Restoration Plans

Business Losses

- Inventory (actual loss due to fire or flooding)

9. REOPENING OR SUPPLEMENTING A CLAIM

9.1 Reopening a Claim

The Claims Office Director may reopen a claim after the claimant has filed a R&C and received payment if requested to do so by the claimant in four circumstances:⁶⁵

1. The claimant desires heightened risk reduction compensation;⁶⁶
2. The claimant closed the sale of a home and wishes to present a claim for decrease in the value of the real property;⁶⁷
3. The claimant has incurred additional losses as part of a reconstruction in excess of those funds previously awarded;⁶⁸ or
4. The Claims Office Director otherwise determines that the claimant has demonstrated good cause to reopen the claim.⁶⁹

The deadline for filing a request to reopen a claim is not later than November 14, 2025. The Claims Office Director's decision to reopen or not reopen a claim is not subject to review through appeal or arbitration.

The Authorized Official will decide compensation under a reopened claim after considering the recommendation of the Claims Reviewer. Claimants who are dissatisfied with the Authorized Official's determination on the reopened claim may appeal to the Claims Office Director.

⁶⁵ 44 C.F.R. § 296.35.

⁶⁶ 44 C.F.R. § 296.21(e)(5); 44 C.F.R. § 296.35.

⁶⁷ 44 C.F.R. § 296.21(c)(3); 44 C.F.R. § 296.35.

⁶⁸ 44 C.F.R. § 296.21(c)(1); 44 C.F.R. § 296.35.

⁶⁹ 44 C.F.R. § 296.35.

10. APPEALS AND ARBITRATION OF CLAIMS

The following section outlines the process for claimants to appeal the determination of the Authorized Official, and if dissatisfied with the outcome of their appeal, pursue arbitration or judicial review. In addition, this section establishes the criteria for appeals and arbitration as outlined in the Act and its implementing regulations, ensuring the uniform implementation of the dispute resolution provisions.⁷⁰

10.1 Administrative Appeals

Once an Authorized Official has provided a determination on all elements of a claim identified in all of the claimant's POLs, a claimant may appeal any portion of the claim, with the following exceptions:

- Claimants may not appeal the decision by Claims Office on whether to provide a partial payment;⁷¹
- Claimants may not appeal partial or final payments for which they have already signed a R&C form.⁷²

Notice of Appeal

Claimants may request a review of an Authorized Official's determination by submitting a written Notice of Appeal (NOA) through one of the following:

- By email to the Appeals Docket email address: fema-hermits-peak-appeals@fema.dhs.gov
- In-person through their Navigator (see the Claims Office Locations and Hours of Operation section for locations)
- By mail to the Claims Office mailing address (see the Claims Office Locations and Hours of Operation section for mailing information)

⁷⁰ The implementing regulation for the Act is Title 44 of the Code of Federal Regulations (C.F.R.) § 296 (August 23, 2023). Relevant regulations are found at § 296.41 Administrative Appeal, § 296.42 Arbitration, and § 296.43 Judicial Review.

⁷¹ 44 C.F.R. § 296.33

⁷² 44 C.F.R. § 296.32

A NOA form is available for the convenience of claimants, but the Claims Office will accept an appeal in any format if it includes the information required and otherwise meets the criteria for an appeal.

The NOA must be postmarked, delivered, or electronically timestamped within 120 days after the date that appears on the final LOD. The NOA must be in writing and contain a detailed description of the claimant's position. The NOA must also specify the dollar amount in dispute for each loss line item in the appeal.

If a claimant elects new representation for their appeal, they must submit a Notice of Representation along with a Privacy Act consent form to authorize data sharing.

Acknowledgement of Appeal

The Claims Office will confirm when a NOA is received by sending claimants a Receipt Letter. The Receipt Letter will address the submission of the NOA as follows:

- If the NOA is received **on time**, claimants will receive an Acknowledgement Letter and, shortly thereafter, a copy of their Administrative Record.
- If the NOA is received **after the deadline**, the Claims Office has the discretion to open the appeal if the claimant can demonstrate good cause for a late submission. For more details on good cause, see the Extensions section below.
- If the NOA is **submitted prematurely**, the Claims Office will instruct claimants to await a final LOD that comprehensively addresses all their POLs.
- If the NOA is **incomplete**, the Claims Office will instruct claimants to provide any missing elements of the NOA.

Supplemental Filings by Claimant

Claimants may supplement their statement in the NOA and provide additional documents in support of their administrative appeal within 60 days after the date when the appeal is filed. Claimants may submit additional documentation to support their appeal, regardless of whether the documentation was previously submitted to the Claims Office.

The Claims Office may extend these timeframes for good cause at the request of the claimant.

If all the claimant's supplemental documentation is submitted prior to the 60-day deadline, the claimant may indicate in writing that they have no further documentation for consideration of their appeal.

Requests for Information from the Claims Office

The Claims Office may request additional information and documentation from claimants and/or from Claims Office staff if relevant to the issues outlined in the NOA. The Claims Office will communicate requests for information and documentation to claimants in writing. If a request for information and documentation is made after the initial 60-day period, the supplemental period will be extended as directed by the RFI.

Conferences

At the request of the claimant, the Claims Office will schedule a conference to facilitate a discussion on the appeal. The Claims Office may also, at its discretion, schedule a conference if the Appeals Administrator finds it will support resolution of the appeal. If the Claims Office exercises its discretion to engage a mediator as part of the appeals process, FEMA will assume those expenses. The claimant may request a mediator to support facilitation of the conference, and the Claims Office will grant the request if it determines a mediator will support resolution of the appeal. The mediator is not a decision-maker, and their sole responsibility is to facilitate the discussion during the conference. Decision-making authority remains with the Appeals Administrator.

Claimants must request a conference (via the same mechanisms identified earlier in this section) by the deadline for submitting supplemental information, which is within 120 days of filing the NOA, and should specify whether they wish to have a mediator involved in facilitating the conference.

Conferences will generally be conducted virtually. However, in limited circumstances, such as when the claimant lacks access to electronic equipment or the internet, an in-person conference may be arranged at a mutually agreed-upon time and location in or near Santa Fe, Mora, or San Miguel Counties in New Mexico.

Absent extraordinary circumstances, a conference will be scheduled for no more than 120 minutes.

Hearings

At the Claims Office's discretion, an informal hearing may be convened to receive oral testimony that cannot be presented in documentary form (such as sworn declarations, estimates, or receipts) to assist the Claims Office in thoroughly addressing an appeal and to allow the claimant to supplement the Administrative Record. These hearings are not adversarial in nature and do not offer an immediate resolution to an appeal. The Hearing Officer is an impartial facilitator who manages the hearing process and collects information, but does not make the appeal decision. They are informal, meaning formal rules of evidence will not be utilized. Rules governing such hearings are set forth below:

- Hearings will generally be conducted virtually. However, in limited circumstances, such as when the claimant lacks access to electronic equipment or the internet, an in-person hearing may be arranged at a mutually agreed-upon location in or near Santa Fe, Mora, or San Miguel counties in New Mexico.
- Hearings will be transcribed. The hearing transcript will be included in the Administrative Record and will be accessible to claimants as part of their record.
- The Claims Office will provide interpreters or any reasonable accommodations if requested prior to the hearing.
- The Claims Office will hear oral testimony from witnesses. Any information presented during the hearing will be added to the Administrative Record.
- Typically, hearings will not exceed 90 minutes, but if the issues are particularly complex, the timeframe may be extended.

Informal Hearing Procedures

At least one week prior to the hearing, the claimant or Claims Office will identify the potential witness(es) and provide a summary of the expected testimony and a statement explaining relevance to the Administrative Record. Based on the proffer, other participants in the hearing may identify rebuttal witnesses.

Claimants and the Claims Office are not required to have representation at the hearing but may elect to do so.

The Hearing Officer will open the hearing by introducing all participants, verifying the claimant's identity using FEMA's usual verification procedures, and outlining the purpose and format of the hearing.

1. Swearing-In

All witnesses will be sworn to testify under penalty of perjury. The hearing will be transcribed for the Administrative Record.

2. Presentation of Oral Testimony

Both claimants and the Claims Office may present witnesses to testify on any relevant factual matter related to the appeal that cannot be submitted to the Administrative Record through documents.

3. Questioning

To facilitate information gathering and the effective presentation of evidence, the Hearing Officer may question witnesses. Witnesses will be subject to questioning from other participants. The Hearing Officer will only allow relevant questions within the scope of the hearing that are not deemed repetitive or intended to intimidate, harass, or embarrass the person being questioned.

Settlements

While an appeal is under consideration, the Claims Office may engage in settlement discussions and if the Claims Office determines that all or a portion of an appeal has merit, it may make a settlement offer. If the claimant accepts the offer, the Claims Office will prepare a settlement agreement to resolve that portion of the dispute and provide compensation. The settlement agreement will preclude arbitration or judicial review against the Claims Office or any other agency of the United States on that/those issue(s).

Extensions

Claimants may request extensions for good cause to:

- 1) the 120-day deadline to file an appeal;
- 2) the 60-day deadline to provide supplemental information, including a request for a conference.

Claimants must file a written request for an extension by email or mail explaining why they will be unable to meet the deadline. Extension requests must be postmarked, delivered, or electronically timestamped prior to the deadline and sent to the Appeals Docket via the

same mechanisms described earlier in this section. The Appeal Administrator has discretion to grant a claimant's request for an extension if good cause is shown.

Good cause for extending deadlines includes, but is not limited to: instances where a claimant, through no fault of their own, is not able to obtain relevant documentation in time to supplement their appeal; or other instances in which the Appeals Administrator determines that an undue hardship or change in circumstances on the claimant warrants an extension of a deadline.

Decision on Appeal

The Claims Office will close the Administrative Record after the time to submit additional documentation has passed or when the claimant notifies the Claims Office that they have no additional documentation to submit, whichever comes first.

The Claims Office will issue a written decision on the Administrative Appeal and provide the decision by email or mail. The decision on the Administrative Appeal will constitute the final decision of the Administrator of FEMA.⁷³

The claimant's acceptance of the decision will be conclusively presumed unless the claimant files for arbitration or judicial review within 60 calendar days⁷⁴ of the date of the final decision on the Administrative Appeal. The Claims Office's appeal decision will include the amount of payment for the disputed portion of the claim, including any additional compensation awarded. A claimant is permitted one appeal, and if dissatisfied after the final decision, one arbitration or one judicial review.

Claimant's Options After Filing a Notice of Appeal

Following receipt of the appeal decision, the claimant can:

- Accept the decision by signing and returning the R&C form and Banking Information form to the Claims Office.
- Dispute the decision. If the claimant remains dissatisfied after the appeal is decided, the dispute may be resolved through either binding arbitration or by seeking judicial

⁷³ 44 C.F.R. 296.41(h)

⁷⁴ 44 C.F.R. 296.41(i)

review by bringing a civil lawsuit against FEMA in the United States District Court for the District of New Mexico.

Additional Provisions

Issues Pending Judicial Review

The Claims Office recognizes that several of its regulations and policies are being challenged in federal court. The Claims Office will not make a final decision on these issues until the matter is fully adjudicated in federal court. To maximize payment of eligible compensation as quickly as possible, the Claims Office will handle such appeals as follows:

- **All Appealed Loss Line Items Are Under Judicial Review** – The appeal will be accepted by the Claims Office and supplemental documentation will be accepted within the timeframes previously specified, but a final decision will not be issued until the matters under judicial review are fully resolved.
- **Some Appealed Loss Line Items Are Under Judicial Review and Some Are Not Under Judicial Review** – The appeal and supplemental documentation will be accepted by the Claims Office and the portion of the appeal concerning items that are **not** under judicial review will be reviewed. If the Claims Office determines that one or more of items that are **not** under judicial review should result in compensation, the Claims Office will offer to settle that portion of the appeal. A final decision will not be issued until such time as the matters under judicial review are fully resolved.

Withdrawal of Appeal

At any point in the appeal process, the claimant may withdraw the appeal in whole or in part by submitting a written request via the mechanisms described earlier in this section. The Claims Office will formally acknowledge that withdrawal by return correspondence.

Claimant Expenses

Claimants are responsible for any expenses they incur for their appeal, including travel costs, attorney's fees, representative fees, copying costs, or costs associated with attending any conference or hearing.

If the Claims Office exercises its discretion to engage a mediator, hearing officer, or court reporter as part of the appeals process FEMA will assume those expenses. Any other fees not listed here will be paid by the party incurring such costs.

If the appeal decision identifies additional compensation and if the claims preparation expenses have not reached the \$25,000 cap, the Claims Office will increase preparation fees based on 5% of the total agency determination, still capped at \$25,000.⁷⁵ (See **5.7 Reimbursement of Expenses to Submit a Claim**)

10.2 Arbitration

Initiating Arbitration

Claimants who are dissatisfied with the outcome of an Administrative Appeal may pursue binding arbitration by submitting a written Request for Arbitration (RFA) through the following options:

- By email to the Arbitration Docket email address: fema-hermits-peak-arbitration@fema.dhs.gov
- In-person through their Navigator (see the Claims Office Locations and Hours of Operation section for locations)
- By mail to the Claims Office mailing address (see the Claims Office Locations and Hours of Operation section for mailing information)

An RFA form is available for the convenience of claimants, but the Claims Office will accept requests for arbitration in any form, as long as it includes the information required and otherwise meets the criteria for arbitration.

RFAs must be postmarked, delivered, or electronically timestamped no later than 60 days after the date appearing on the Administrative Appeal decision.⁷⁶ If the claimant does not request arbitration within the regulatory timeframe, the claimant no longer has a right to arbitrate.

⁷⁵ 44 C.F.R. §296.31(b)

⁷⁶ To be eligible to request an arbitration, claimants must have filed an appeal with the Claims Office within the timeframes established in 44 C.F.R. §296.41, that is, appeals must be postmarked or delivered within 120 days after the date that appears on the Authorized Official's determination.

Permissible Claims and Evidence

Claimants may only arbitrate an issue if it was raised and decided in an Administrative Appeal. Only evidence contained in the Administrative Record will be considered during arbitration. No new documentation can be submitted.

Selection of Arbitrator

The Arbitration Administrator maintains a list of qualified arbitrators and makes assignments by random drawings. If the amount in dispute is \$500,000 or less, one arbitrator will conduct and decide the arbitration. If the amount in dispute exceeds \$500,000, a panel of three arbitrators will conduct and decide the arbitration.

Conduct of Arbitration

The Arbitration Administrator will provide guidelines for the conduct of the arbitration directly to claimants who file an RFA. Arbitration will include a hearing where the claimant's written request for arbitration and the Administrative Record will be considered. A hearing will be conducted during which the arbitrator(s) will receive oral and/or written testimony that further explains information already entered into the Administrative Record but will not receive or consider new evidence. Evidence or documents provided after the Administrative Appeal final decision will not be part of the Administrative Record and will not be considered in the arbitration. Hearings will generally be conducted virtually, but in limited circumstances may be convened in-person at a mutually agreed-upon time and location in Santa Fe, Mora, or San Miguel Counties in New Mexico.

The arbitrators will review the record for substantial evidence supporting the decision and will uphold the claim decision if it is supported by substantial evidence on the record considered as a whole.

Decision

After reviewing the evidence in the Administrative Record and conducting a hearing, the arbitrator(s) will render a written decision and transmit it to the Arbitration Administrator, the claimant, and the Claims Office Director. Decisions by a panel of three arbitrators must be signed by at least two of the three arbitrators and all arbitration decisions should be rendered no later than 10 days after the hearing is concluded.

The Arbitration Administrator may extend the time for a decision with notice to the claimant and the Claims Office Director. The decision of the arbitrator(s) will include the amount of compensation if compensation is awarded to the claimant, and an explanation on why additional compensation was or was not awarded. The decision of the arbitrator(s) is final and binding on all parties and is not subject to administrative or judicial review.⁷⁷

Any additional compensation awarded will be paid to the claimant upon receipt of a signed R&C form and Banking Information form.

Fees and Expenses

The Arbitration Administrator pays all fees and expenses of the arbitrator(s). Claimants are responsible for any expenses they incur, including travel costs, attorney's fees, representative fees, copying costs, or costs associated with attending any hearing; any other fees not listed here will be paid by the party incurring such costs.

If the arbitration decision grants additional compensation beyond the initial determination, and if the claims preparation expenses have not reached the \$25,000 cap, claimants will have their preparation fees increased based on 5% of the total agency determination, still capped at \$25,000.⁷⁸ (See Section 5.7, Reimbursement of Expenses to Submit a Claim)

10.3 Judicial Review

As an alternative to arbitration, a claimant dissatisfied with the final Administrative Appeal decision may seek judicial review of the decision by bringing a civil lawsuit against FEMA in the United States District Court for the District of New Mexico. This lawsuit must be brought within 60 days of the date that appears on the Administrative Appeal decision. The court may only consider evidence in the Administrative Record and will uphold FEMA's decision if it is supported by substantial evidence on the record considered as a whole.

10.4 Collecting Erroneous Payments

The United States will attempt to recover any funds improperly paid to claimants, such as when:

⁷⁷ The Act, § 104(h)(3)(C) explains the binding effect of arbitration and the subsequent preclusion of the right to judicial review as provided for in § 104(i). A claimant who wants to contest the final decision on Administrative Appeal can only elect one of the two options.

⁷⁸ 44 C.F.R. § 296.31(b)

1. It determines the payment was due to fraud or willful misrepresentation by claimant or claimant's representative;
2. Failure of the claimant to cooperate with an audit;⁷⁹ or
3. A material mistake by FEMA.⁸⁰

The Act generally obligates FEMA to attempt to recover payments where there is evidence of civil or criminal fraud, misrepresentation, presentation of a false claim or where a claimant was not eligible for a partial payment received pursuant to the Act. FEMA will also recover overpayments where the agency made a material mistake in the calculation of the damages owed to the claimant and in other appropriate cases.

⁷⁹ 44 C.F.R. § 296.36.

⁸⁰ 44 C.F.R. § 296.30(d)

11. ACCESS TO RECORDS AND PRIVACY ACT

11.1 Privacy Protection

The Privacy Act of 1974 regulates how FEMA collects, uses, and discloses a claimant's personal information in order to protect the privacy of the claimant. The Claims Office may only disclose this information with the consent of the claimant or pursuant to an enumerated exception to the Privacy Act's nondisclosure provision. Confidential, proprietary, and trade secret information provided by entities, such as businesses, Tribal Nations, tribal entities, and government agencies, are not eligible for Privacy Act protection, but may be exempt from disclosure under the Freedom of Information Act (FOIA). If claimants are not covered by the Privacy Act (non-individuals such as businesses or governments), they should discuss their intent to protect confidential information from disclosure with the Claims Office⁸¹ before the information is submitted, as the Claims Office may not be able to prevent the disclosure of this information unless it has been made aware of its confidential nature.⁸²

11.2 Audits and Investigation

For purpose of audit and investigation, a claimant will grant the DHS Office of the Inspector General and the Comptroller General of the United States access to any property that is the subject of a claim and to any and all books, documents, papers, and records (including any relevant tax records) maintained by a claimant or under the claimant's control pertaining or relevant to the claim.⁸³

11.3 Request for Information

When a claimant signs a NOL, which includes the provisions of the Privacy Act Notice, they are expressly acknowledging that they grant permission to the Claims Office to share their information with federal, state and local government agencies, as well as private organizations as authorized by the Privacy Act and the DHS Claims Records System of Records Notice. This sharing is primarily for the purpose of confirming the claimant's identity, their eligibility and assessing any previous compensation or payments made in connection with the fire. Additionally, under certain circumstances and in accordance with

⁸¹ 5 U.S.C. 552a(b)(1)-(12).

⁸² 44 C.F.R. § 296.37.

⁸³ 44 C.F.R. § 296.36.

the applicable statutes and regulations, the Claims Office may disclose this information for specific routine uses or pursuant to any other permitted exception to the Privacy Act's nondisclosure provision without requiring separate consent.

11.4 Request for File

A claimant has access to his/her records kept by the Claims Office and may request a copy by sending a written request, by mail or email to:

Email: fema-hermits-peak@fema.dhs.gov

FEMA Hermit's Peak/Calf Canyon Claims Office
P.O. Box 1329
Santa Fe, NM 87504

A claimant should:

1. Mark the envelope and letter of request "Privacy Act Request";
2. Provide in the letter:
 - a. Full name;
 - b. Some type of appropriate personal identification, such as a driver's license, passport, employing office's identification card, military identification card, student identification card or other identification data;
 - c. Full current address; and
 - d. A description of the records that the claimant is seeking. FEMA Privacy Act regulations are located at 44 CFR Part 6.

Appendix A: List of Acronyms

AO	Authorized Official
APA	Administrative Procedure Act
BAER	Burned Area Emergency Response
CR	Claims Reviewer
CRA	Congressional Review of Agency Rulemaking Act
DEC	Data Entry Clerk
DHS	Department of Homeland Security
DOB	Duplication of Benefits
EFT	Electronic Funds Transfer
EHP	Environmental/Historical Preservation
FEMA	Federal Emergency Management Agency
FOIA	Freedom of Information Act
IFR	Interim Final Rule
IBHS	Insurance Institute for Building and Home Safety
LOD	Letter of Determination
NADA	National Auto Dealers Association
NEPA	National Environmental Policy Act of 1969
NFIP	National Flood Insurance Program

NM	New Mexico
NOL	Notice of Loss
NRCS	(USDA-NRCS) Natural Resources Conservation Service
PA	Public Assistance
PAS	Privacy Act Statements
POL	Proof of Loss
PPG	Program and Policy Guide
SBA	Small Business Administration
SFHA	Special Flood Hazard Area
SLTT	State, local, tribal, and territorial
SNAP	Supplemental Nutrition Assistance Program
SOR	System of Record
USDA	United States Department of Agriculture
USFS	United States Forest Service
WYO	Write Your Own

Appendix B: Glossary

Administrative Appeal: Appeal of the Authorized Official's Determination to the Claims Office Director.

Administrative Record: All information submitted by the claimant and all information collected by FEMA concerning the claim, which is used to evaluate the claim and to formulate the Authorized Official's Determination. It includes all information that is submitted by the claimant or FEMA in an Administrative Appeal and the decision of the Administrative Appeal.

Advocate: The Advocate reports to the Claims Office Director and works with claimants to resolve conflicts and concerns; educate claimants on claim process and policy; and identifies challenges claimants are having with claims process.

Arbitration Administrator: The Claims Office employee responsible for administering arbitration procedures to resolve disputes regarding a claim. This role is filled by the Appeals, Arbitrations, and Audits Branch Chief in the Claims Office.

Authorized Official: An employee of the United States who is delegated by the Claims Office Director to render binding determinations on claims and to determine compensation due to claimants under the Act. Only Authorized Officials have the authority to decide claims.

Authorized Official's Determination: Document signed by an Authorized Official and mailed to the claimant evaluating each element of the claim as stated in the Proof of Loss and determining the compensation, if any, due to the claimant.

Claimant: A person or entity that has filed a Notice of Loss (NOL) under the Act.

Claims Office: The Hermit's Peak/Calf Canyon Fire Claims Office is established by the Hermit's Peak/Calf Canyon Fire Assistance Act and is responsible for administering the program to provide compensation for the victims of the Hermit's Peak/Calf Canyon Fire and associated impacts.

Claims Office Director: Independent Claims Manager appointed by the Administrator who leads the Claims Office and determines claimant appeals.

Claims Reviewer: A licensed insurance adjuster contracted by the Claims Office who is authorized by the Claims Office Director to review and evaluate claims submitted under the Act. Their role is to work with the claimant to obtain relevant evidence, analyze the evidence, and make a recommendation to an Authorized Official. Contracted Claims Reviewers have technical backgrounds in construction, engineering, environmental, and insurance.

Days: Calendar days, including weekends and holidays.

Debris Removal: Debris removal activities such as clearance, removal and disposal of vegetative, construction and demolition debris, sand, silt, sediment, gravel, rock, boulders, white goods, vehicle and hazardous trees.

Good Cause: Consideration for purposes of extending the deadline for filing, supplementing a claim, or reopening a claim includes, but is not limited to: instances where a claimant, through no fault of their own, may not be able to access needed documentation in time to submit a claim or transmit relevant information or data; or where damage is found after a claim has been submitted; or other instances in which the Claims Office Director, in their discretion, determines that an undue hardship or change in circumstances on the claimant warrants an extension of a deadline or the supplementation or reopening of existing claims.

Hazardous Trees: May include tree limbs, branches, stumps, or trees that are still in place, but damaged by the fire to the extent they pose significant threat.

Hermit's Peak/Calf Canyon Fire:

- (1) The fire resulting from the initiation by the U.S. Forest Service of a prescribed burn in the Santa Fe National Forest in San Miguel County, New Mexico on April 6, 2022;
- (2) The pile burn holdover resulting from the prescribed burn by the U.S. Forest Service which reemerged on April 19, 2022; and
- (3) The merger of the two fires described in paragraphs (1) and (2) of this definition, reported as the Hermit's Peak Fire or the Hermit's Peak Fire/Calf Canyon Fire.

Household: A group of people, related or unrelated, who live together on a continuous basis and does not include members of an extended family who do not regularly and continuously cohabit.

Injured Person: An individual, regardless of citizenship or alien status; or a Tribal Nation, tribal corporation, corporation, partnership, company, association, county, township, city, state, school district, or other non-federal entity with losses resulting from the Fire. The term Injured Person includes a tribal government or Tribal Nation with respect to any claim

relating to property or natural resources held in trust for the tribe by the United States. Lenders holding mortgages or security interests on property affected by the Hermit's Peak/Calf Canyon Fire and lien holders are not an "Injured Person" for purposes of the Act.

Injury: "Injury or loss of property, or personal injury or death" as used in the Federal Tort Claims Act, 28 U.S.C. 1346(b)(1).

Letter of Determination: A written decision to the claimant which includes a summary of the compensation amounts determined by the Claims Reviewer.

Navigator: A Claims Office employee who is a trusted member of the local community and who provides individualized support to claimants and assists them throughout the life of the claim but are not authorized to make eligibility or compensation determinations for any claim.

Notice of Loss: A form supplied by the Claims Office through which an Injured Person or Subrogee initiates a claim seeking compensation under the Act.

Partial Payment Proof of Loss: A variation of the Proof of Loss form for partial payments.

Partial Payment Letter of Determination: A variation of the Letter of Determination for partial payments

Partial Payment Release and Certification: A variation of the Release and Certification form for partial payments.

Physical Damage: Actual physical damage to tangible assets or inventory of the business, including real property, that was caused by the fire. The term includes damage to or destruction of trees and shrubbery as well as damage to or destruction of any part of a building.

Proof of Loss: A statement attesting to the nature and extent of the claimant's injuries.

Public Assistance: The FEMA grants program established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 United States Code (U.S.C.) §§ 5121-5207, which provides assistance to state, local, tribal, or territorial (SLTT) governments, and certain types of private nonprofit organizations so that communities can quickly respond to and recover from major disasters and emergencies declared by the President.

Real Property: All lands including buildings, improvements and fixtures thereon and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years leaseholds and liens by way of judgment, mortgage or otherwise.

Release and Certification (R&C) Form: A document in the manner prescribed by Section 104 of the Act that all claimants who have received or are awarded compensatory damages under the Act must execute and return to the Claims Office as established in 44 C.F.R § 296.30(c).

Risk Reduction: Activities that minimize the risk of wildfire, flood, or other natural disaster in the counties impacted by the Hermit's Peak Fire to risk levels prevailing in those counties before the Hermit's Peak Fire.

Severable: A portion of a claim that is factually and legally distinguishable and that can be considered on its own without affecting any other portion of the claim.

Stafford Act: Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended. This Act constitutes the statutory authority for most federal disaster response activities especially as they pertain to FEMA and FEMA programs.

Subrogee: An insurer or other third party that has paid on an insurance claim or compensation to claimant for injury and is subrogated to any right that the claimant has to receive payment under the Act.

Subsistence Resources: Food and other natural resources obtained through hunting, fishing, firewood gathering, timbering, grazing or agricultural activities.

Tribal Citizen: An enrolled member of a Tribal Nation.

Tribal Nations: Federally recognized Indian Tribal Nations, including Alaska Native villages and organizations, pueblo, village, community, component band, or components reservation individually identified (including parenthetically) in the list published most recently by the Bureau of Indian Affairs (BIA) as of September 30, 2022, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994.

Appendix C: Table of Updates

Section Number	Title	Date of Change	Amendment
<i>Ex. Appendix C</i>	<i>Table of Updates</i>	<i>11/01/2023</i>	
	PPG Version 1.0	Published 01/23/2024	
10	Appeals and Arbitration of Claims	05/15/2024	Major revisions to add more detail on Appeals and Arbitration process

Appendix D: Required Forms

The following forms are intended for use as examples or reference material only. They are not intended to be printed or used for Claims Office submission. For the most up-to-date versions of each form including forms in languages other than English, please visit the Hermit's Peak/Calf Canyon Website ([Link](#)).

Notice of Loss – English ([Link](#))

Notice of Loss – Spanish ([Link](#))

Proof of Loss – English ([Link](#))

Proof of Loss – Spanish ([Link](#))