

condition of receiving project grant funds under the HMGP, in accordance with §201.6.

(2) At a minimum, review and, if necessary, update the local mitigation plan every five years from date of plan approval to continue program eligibility.

(e) *Indian tribal governments.* Indian tribal governments will be given the option of applying directly to us for Hazard Mitigation Grant Program funding, or they may choose to apply through the State. If they apply directly to us, they will assume the responsibilities of the State, or grantee, and if they apply through the State, they will assume the responsibilities of the local government, or subgrantee.

37 FR 8948, Feb. 26, 2002, as amended at 67 FR 61515, Oct. 1, 2002; 69 FR 55096, Sept. 13, 2004.

2014 Standard State Mitigation Plans.

(a) *Plan requirement.* (1) By November 2004, States must have an approved Standard State Mitigation Plan meeting the requirements of this section in order to receive assistance under the Stafford Act, although assistance authorized under disasters declared prior to November 1, 2004 will continue to be made available. Until that date, existing FEMA approved State Mitigation Plans will be accepted. In any case, emergency assistance provided under 42 U.S.C. 5170a, 5170b, 5173, 5174, 5177, 5179, 180, 5182, 5183, 5184, 5192 will not be affected. Mitigation planning grants provided through the Pre-Disaster Mitigation (PDM) program, authorized under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5133, will also continue to be available. The mitigation plan is the demonstration of the State's commitment to reduce risks from natural hazards and serves as a guide for State decision makers as they commit resources to reducing the effects of natural hazards. States may choose to include the requirements of the HMGP Administrative Plan in their mitigation plan, but must comply with the requirements for updates, amendments, or revisions listed under 1 CFR 206.437.

44 CFR Ch. I (10-1-06 Edition)

(2) A Governor, or Indian tribal leader, may request an extension to the plan approval deadline by submitting a request in writing to the Director of FEMA, through the Regional Director. At a minimum, this must be signed by the Governor or the Indian tribal leader, and must include justification for the extension, identification of the reasons the plan has not been completed, identification of the amount of additional time required to complete the plan, and a strategy for finalizing the plan. The Director of FEMA will review each request and may grant a plan approval extension of up to six months. However, any extended plan approval deadline will be no later than May 1, 2005.

(b) *Planning process.* An effective planning process is essential in developing and maintaining a good plan. The mitigation planning process should include coordination with other State agencies, appropriate Federal agencies, interested groups, and be integrated to the extent possible with other ongoing State planning efforts as well as other FEMA mitigation programs and initiatives.

(c) *Plan content.* To be effective the plan must include the following elements:
(1) Description of the *planning process* used to develop the plan, including how it was prepared, who was involved in the process, and how other agencies participated.
(2) *Risk assessments* that provide the factual basis for activities proposed in the strategy portion of the mitigation plan. Statewide risk assessments must characterize and analyze natural hazards and risks to provide a statewide overview. This overview will allow the State to compare potential losses throughout the State and to determine their priorities for implementing mitigation measures under the strategy, and to prioritize jurisdictions for receiving technical and financial support in developing more detailed local risk and vulnerability assessments. The risk assessment shall include the following:

- (i) An overview of the type and location of all natural hazards that can affect the State, including information on previous occurrences of hazard events, as well as the probability of future hazard events, using maps where appropriate.
- (ii) An overview and analysis of the State's vulnerability to the hazards described in this paragraph (c)(2), based on estimates provided in local risk assessments as well as the State risk assessment. The State shall describe vulnerability in terms of the jurisdictions most threatened by the identified hazards, and most vulnerable to damage and loss associated with hazard events. State owned critical or operated facilities located in the identified hazard areas shall also be addressed.
- (iii) An overview and analysis of potential losses to the identified vulnerable structures, based on estimates provided in local risk assessments as well as the State risk assessment. The State shall estimate the potential dollar losses to State owned or operated buildings, infrastructure, and critical facilities located in the identified hazard areas.
- (3) A *Mitigation Strategy* that provides the State's blueprint for reducing the losses identified in the risk assessment. This section shall include:
 - (i) A description of State goals to guide the selection of activities to mitigate and reduce potential losses.
 - (ii) A discussion of the State's pre- and post-disaster hazard management policies, programs, and capabilities to mitigate the hazards in the area, including: an evaluation of State laws, regulations, policies, and programs related to hazard mitigation as well as to development in hazard-prone areas; a discussion of State funding capabilities for hazard mitigation projects; and a general description and analysis of the effectiveness of local mitigation policies, programs, and capabilities.
 - (iii) An identification, evaluation, and prioritization of cost-effective, environmentally sound, and technically feasible mitigation actions and activities the State is considering and an explanation of how each activity contributes to the overall mitigation strategy. This section should be linked to local plans, where specific local actions and projects are identified.
 - (iv) Identification of current and potential sources of Federal, State, local,

Federal Emergency Management Agency, DHS

or private funding to implement mitigation activities.
(4) A section on the *Coordination of Local Mitigation Planning* that includes the following:
(i) A description of the State process to support, through funding and technical assistance, the development of local mitigation plans.

(ii) A description of the State process and timeframe by which the local plans will be reviewed, coordinated, and linked to the State Mitigation Plan.

(iii) Criteria for prioritizing communities and local jurisdictions that would receive planning and project grants under available funding programs, which should include consideration for communities with the highest risks, repetitive loss properties, and most intense development pressures. Further, that for non-planning grants, a principal criterion for prioritizing grants shall be the extent to which benefits are maximized according to a cost benefit review of proposed projects and their associated costs.

(5) A *Plan Maintenance Process* that includes:
(i) An established method and schedule for monitoring, evaluating, and updating the plan.

(ii) A system for monitoring implementation of mitigation measures and project closeouts.

(iii) A system for reviewing progress on achieving goals as well as activities and projects identified in the Mitigation Strategy.

(6) A *Plan Adoption Process.* The plan must be formally adopted by the State prior to submittal to us for final review and approval.

(7) *Assurances.* The plan must include assurances that the State will comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding, in compliance with 44 CFR 13.11(c). The State will amend its plan whenever necessary to reflect changes in State or Federal laws and statutes as required in 44 CFR 13.11(d).
(d) *Review and updates.* Plan must be reviewed and revised to reflect changes in development, progress in statewide mitigation efforts, and changes in priorities and resubmitted for approval to the appropriate Regional Director

every three years. The Regional review will be completed within 45 days after receipt from the State, whenever possible. We also encourage a State to review its plan in the post-disaster timeframe to reflect changing priorities, but it is not required.

[67 FR 8848, Feb. 26, 2002, as amended at 67 FR 6151, Oct. 1, 2002, 69 FR 55056, Sept. 13, 2004]

§ 201.5 Enhanced State Mitigation Plans.

(a) A State with a FEMA approved Enhanced State Mitigation Plan at the time of a disaster declaration is eligible to receive increased funds under the HMGP, based on twenty percent of the total estimated eligible Stafford Act disaster assistance. The Enhanced State Mitigation Plan must demonstrate that a State has developed a comprehensive mitigation program, that the State effectively uses available mitigation funding, and that it is capable of managing the increased funding. In order for the State to be eligible for the 20 percent HMGP funding, FEMA must have approved the plan within three years prior to the disaster declaration.

(b) Enhanced State Mitigation Plans must include all elements of the Standard State Mitigation Plan identified in § 201.4, as well as document the following:

- (1) Demonstration that the plan is integrated to the extent practicable with other State and/or regional planning initiatives (comprehensive, growth management, economic development, capital improvement, land development, and/or emergency management plans) and FEMA mitigation programs and initiatives that provide guidance to State and regional agencies.
- (2) Documentation of the State's project implementation capability, identifying and demonstrating the ability to implement the plan, including:

- (i) Established eligibility criteria for multi-hazard mitigation measures.
- (ii) A system to determine the cost effectiveness of mitigation measures, consistent with OMB Circular A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs,

and to rank the measures according to the State's eligibility criteria.

(iii) Demonstration that the State has the capability to effectively manage the HMGP as well as other mitigation grant programs, including a record of the following:

- (A) Meeting HMGP and other mitigation grant application timeliness and submitting complete, technically feasible, and eligible project applications with appropriate supporting documentation.
- (B) Preparing and submitting accurate environmental reviews and benefit-cost analyses.
- (C) Submitting complete and accurate quarterly progress and financial reports on time; and
- (D) Completing HMGP and other mitigation grant projects within established performance periods, including financial reconciliation.

(iv) A system and strategy by which the State will conduct an assessment of the completed mitigation actions and include a record of the effectiveness (actual cost avoidance) of each mitigation action.

(3) Demonstration that the State effectively uses existing mitigation programs to achieve its mitigation goals.

(4) Demonstration that the State is committed to a comprehensive state mitigation program, which might include any of the following:

- (i) A commitment to support local mitigation planning by providing workshops and training, State planning grants, or coordinated capability development of local officials, including Emergency Management and Floodplain Management certifications.
- (ii) A statewide program of hazard mitigation through the development of legislative initiatives, mitigation councils, formation of public/private partnerships, and/or other executive actions that promote hazard mitigation.
- (iii) The State provides a portion of the non-Federal match for HMGP and/or other mitigation projects.
- (iv) To the extent allowed by State law, the State requires or encourages local governments to use a current version of a nationally applicable model building code or standard that addresses natural hazards as a basis for

design and construction of State sponsored mitigation projects.

(v) A comprehensive, multi-year plan to mitigate the risks posed to existing buildings that have been identified as necessary for post-disaster response and recovery operations.

(vi) A comprehensive description of how the State integrates mitigation into its post-disaster recovery operations.

(c) *Review and updates.* (1) A State must review and revise its plan to reflect changes in development, progress in statewide mitigation efforts, and changes in priorities, and resubmit it for approval to the appropriate Regional Director every three years. The Regional review will be completed within 45 days after receipt from the State, whenever possible.

(2) In order for a State to be eligible for the 20 percent HMGP funding, the Enhanced State Mitigation plan must be approved by FEMA within the three years prior to the current major disaster declaration.

§ 201.6 Local Mitigation Plans.

The local mitigation plan is the representation of the jurisdiction's commitment to reduce risks from natural hazards, serving as a guide for decision makers as they commit resources to reducing the effects of natural hazards. Local plans will also serve as the basis for the State to provide technical assistance and to prioritize project funding.

(a) *Plan requirements.* (1) For disasters declared on or after November 1, 2004, a local government must have a mitigation plan approved pursuant to this section in order to receive HMGP project grants.

(2) Local governments must have a mitigation plan approved pursuant to this section in order to receive a project grant through the Pre-Disaster Mitigation (PDM) program under any Notice of funding opportunity issued after November 1, 2003. The PDM program is authorized under § 208 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5133. PDM planning grants will continue to be made available to local governments after this time to enable

them to meet the requirements of this section.

(3) Regional Directors may grant an exception to the plan requirement in extraordinary circumstances, such as in a small and impoverished community, when justification is provided. In these cases, a plan will be completed within 12 months of the award of the project grant. If a plan is not provided within this timeframe, the project grant will be terminated, and any costs incurred after notice of grant's termination will not be reimbursed by FEMA.

(4) Multi-jurisdictional plans (e.g. watershed plans) may be accepted, as appropriate, as long as each jurisdiction has participated in the process and has officially adopted the plan. State-wide plans will not be accepted as multi-jurisdictional plans.

(b) *Planning process.* An open public involvement process is essential to the development of an effective plan. In order to develop a more comprehensive approach to reducing the effects of natural disasters, the planning process shall include:

- (1) An opportunity for the public to comment on the plan during the drafting stage and prior to plan approval.
 - (2) An opportunity for neighboring communities, local and regional agencies involved in hazard mitigation activities, and agencies that have the authority to regulate development, as well as businesses, academia and other private and non-profit interests to be involved in the planning process; and
 - (3) Review and incorporation, if appropriate, of existing plans, studies, reports, and technical information.
- (c) *Plan content.* The plan shall include the following:
- (1) Documentation of the *planning process* used to develop the plan, including how it was prepared, who was involved in the process, and how the public was involved.
 - (2) A *risk assessment* that provides the factual basis for activities proposed in the strategy to reduce losses from identified hazards. Local risk assessments must provide sufficient information to enable the jurisdiction to identify and prioritize appropriate mitigation actions to reduce losses from identified

hazards. The risk assessment shall include:

(j) A description of the type, location, and extent of all natural hazards that can affect the jurisdiction. The plan shall include information on previous occurrences of hazard events and on the probability of future hazard events.

(i) A description of the jurisdiction's vulnerability to the hazards described in paragraph (c)(2)(i) of this section. This description shall include an overall summary of each hazard and its impact on the community. The plan should describe vulnerability in terms of:

(A) The types and numbers of existing and future buildings, infrastructure, and critical facilities located in the identified hazard areas;

(B) An estimate of the potential dollar losses to vulnerable structures identified in paragraph (c)(2)(i)(A) of this section and a description of the methodology used to prepare the estimate;

(C) Providing a general description of land uses and development trends within the community so that mitigation options can be considered in future land use decisions.

(iii) For multi-jurisdictional plans, the risk assessment section must assess each jurisdiction's risks where they vary from the risks facing the entire planning area.

(3) A mitigation strategy that provides the jurisdiction's blueprint for reducing the potential losses identified in the risk assessment, based on existing authorities, policies, programs and resources, and its ability to expand on and improve these existing tools. This section shall include:

(i) A description of mitigation goals to reduce or avoid long-term vulnerabilities to the identified hazards.

(ii) A section that identifies and analyzes a comprehensive range of specific mitigation actions and projects being considered to reduce the effects of each hazard, with particular emphasis on new and existing buildings and infrastructure.

(iii) An action plan describing how the actions identified in paragraph (c)(2)(ii) of this section will be

prioritized, implemented, and administered by the local jurisdiction. ~~Priority~~ shall include a special emphasis on the extent to which benefits are maximized according to a cost benefit review of the proposed projects and their associated costs.

(iv) For multi-jurisdictional plans, there must be identifiable action items specific to the jurisdiction requesting FEMA approval or credit of the plan.

(4) A plan maintenance process that includes:

(i) A section describing the method and schedule of monitoring, evaluating, and updating the mitigation plan within a five-year cycle.

(ii) A process by which local governments incorporate the requirements of the mitigation plan into other planning mechanisms such as comprehensive or capital improvement plans, when appropriate.

(iii) Discussion on how the community will continue public participation in the plan maintenance process.

(5) Documentation that the plan has been formally adopted by the governing body of the jurisdiction requesting approval of the plan (e.g., City Council, County Commissioner, Tribal Council). For multi-jurisdictional plans, each jurisdiction requesting approval of the plan must document that it has been formally adopted.

(d) Plan review. (1) Plans must be submitted to the State Hazard Mitigation Officer for initial review and coordination. The State will then send the plan to the appropriate FEMA Regional Office for formal review and approval.

(2) The Regional review will be completed within 45 days after receipt from the State, whenever possible.

(3) Plans must be reviewed, revised if appropriate, and resubmitted for approval within five years in order to continue to be eligible for HMGFP project grant funding.

(4) Managing States that have been approved under the criteria established by FEMA pursuant to 42 U.S.C. 5170c(c) will be delegated approval authority for local mitigation plans, and the review will be based on the criteria in this part. Managing States will review the plans within 45 days of receipt of

the plans, whenever possible, and provide a copy of the approved plans to the Regional Office.

[67 FR 8848, Feb. 26, 2002, as amended at 67 FR 61515, Oct. 1, 2002; 68 FR 61370, Oct. 28, 2003; 69 FR 56096, Sept. 13, 2004]

PARTS 202-203 [RESERVED]

PART 204—FIRE MANAGEMENT ASSISTANCE GRANT PROGRAM

Subpart A—General

Sec. 204.1 Purpose.

204.2 Scope.

204.3 Definitions used throughout this part.

Subpart B—Declaration Process

204.21 Fire management assistance declaration criteria.

204.22 Submitting a request for a fire management assistance declaration.

204.23 Processing a request for a fire management assistance declaration.

204.24 Determination on request for a fire management assistance declaration.

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

204.26 Appeal of fire management assistance declaration denial.

204.27-204.40 [Reserved]

Subpart C—Eligibility

204.41 Applicant eligibility.

204.42 Eligible costs.

204.43 Ineligible costs.

204.44-204.50 [Reserved]

Subpart D—Application Procedures

204.51 Application and approval procedures for a fire management assistance grant.

204.52 Application and approval procedures for a subgrant under a fire management assistance grant.

204.53 Certifying costs and payments.

204.54 Appeals.

204.55-204.60 [Reserved]

Subpart E—Grant Administration

204.61 Cost share.

204.62 Duplication and recovery of assistance.

204.63 Allowable costs.

204.64 Reporting and audit requirements.

AUTHORITY: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329;

E.O. 12127, 44 FR 19367, 376; E.O. 12148, 44 FR Comp., p. 412; and E.O. CFR, 1989 Comp., p. 214.

SOURCE: 66 FR 57947, 1 otherwise noted.

Subpart A—

§ 204.1 Purpose.

This part provides the procedures for the grants management / Fire Management Program in accordance with section 420 of this part also detail this part and the eligibility and the eligible considered under the (FEMA) will actively and Tribal emergency foresters on the effort fire management assisted by this part.

§ 204.2 Scope.

This part is intended to provide the individuals responsible for the Fire Management Program, as well as the State, local government, and the grantee for a fire management assistance grant approved by this part.

§ 204.3 Definitions in this part.

Applicant. A State government submit to us for a fire management grant, or a State, local government submit to the Grantee for a fire management assistance grant approved by this part.

Associate Director. The Director or Assistant Director of the Ready Recovery Directorate her designated representative **Declared fire.** An un fire complex, threat as would constitute, which the Associate approved in response request for a fire management declaration and in accordance listed in § 204.

Demobilization. The procedures for deactivating, and transport