

INTERSTATE MUTUAL AID AGREEMENT FOR
WILDLAND FIRE MANAGEMENT ASSISTANCE

Between

New Mexico Energy, Minerals and Natural Resources Department, Forestry Division

and

Oregon Department of Forestry

I. Purpose and Authority

This Interstate Mutual Aid Agreement for Wildland Fire Management Assistance (Agreement) is made and entered into between the state agencies listed herein.

The purpose of this Agreement is to provide for mutual assistance in wildland fire incident management. The Agreement facilitates the coordination and direct exchange of personnel, equipment, supplies, and services and the means for both parties to bill each other directly whether resources are ordered through this Agreement or through the standard dispatch procedures.

This Agreement is entered into pursuant to the following authorities:

New Mexico: Forest Conservation Act, NMSA 1978, § 68-2-6; and State of New Mexico, Disaster Location Act, NMSA 1978, §§ 12-11-23 through 12-11-25.

Oregon: Oregon Revised Statute, Chapter 477

II. Definitions

- A. Agency Standard – the standards used by a state for qualifying and certifying wildland fire resources.
- B. Authorized Representative – an officer or employee of a state who is authorized by the state to request or provide assistance under the terms of this Agreement.
- C. Cooperator – includes (1) county or municipal (e.g. town or city) equipment and personnel, (2) volunteer and paid personnel, equipment, and apparatus from fire service organizations.
- D. Direct Costs – are those items of expense specifically identified with the delivery or completion of a project or program. Examples include, but are not limited to, personnel costs (salary and fringe benefits), equipment costs, travel, materials, supplies, and contracts.
- E. Employee – includes paid personnel and any volunteer or auxiliary legally included within the agency's firefighting forces.

- F. Federal Standard – the current National Wildfire Coordinating Group (NWCG) standard used for qualifying and certifying wildland fire resources for interagency use on a federal wildland fire incident.
- G. Incident – a wildland fire where external assistance is needed in order to protect life, property, and natural resources.
- H. Indirect Costs – are those items of expense incurred as part of general management and administrative support of an organization.
- I. Requesting State – the state requesting assistance.
- J. Resources – including but not limited to personnel, equipment, aircraft, and supplies needed to support a wildland fire incident.
- K. Serious Accident - one in which a person suffers serious bodily injury or death, or where there is extensive property or equipment damage or loss.
- L. Supporting State – the state providing resources to another state for wildland fire.

III. General Implementation

Both parties recognize that wildland fire emergencies transcend jurisdictional boundaries and that intergovernmental coordination is essential in managing wildland fires. Both parties further recognize that there shall be incidents which require use of external resources. Additionally, a coordinated and cooperative sharing of resources may be required to develop and maintain the capability to manage future incidents. Few, if any, states have all the resources they may need to manage all incidents that may arise.

This Agreement also serves as a mechanism for both parties to bill each other directly, if agreeable to both parties.

The prompt and effective use of wildland fire management resources between both parties shall be the underlying principle on which all aspects of this Agreement shall be understood.

The authorized representative who is assigned responsibility for wildland fire management shall be responsible for formulation of the appropriate plans and procedures necessary to implement this Agreement.

IV. Responsibilities

Both parties shall formulate procedural plans for interstate cooperation and coordination in the performance of the responsibilities listed in this section. In formulating such plans, and in carrying them out, the parties, insofar as practical, shall:

- A. Use existing dispatch procedures to request or send resources for wildland fire assistance. The Requesting State shall notify dispatch at time of request that the resources are being requested through a state-to-state agreement, which shall be noted on the resource orders.

- B. Ensure that both parties agree upon the length of assignment and decision for crew rotation.
- C. Extend assignments by mutual written agreement.
- D. Ensure that both parties agree upon reassignment of resources outside of the Requesting State's jurisdiction or outside the agreement made at time of initial request.
- E. Request a liaison to be assigned to the Supporting State resources. Both parties shall determine and document in writing who shall cover the costs for the liaison.

The Requesting State shall:

- A. Use existing processes whereby personnel from the Supporting State receive an incident briefing by the Requesting State prior to fire line deployment.
- B. Provide debriefings and evaluations to the Supporting State prior to demobilization.
- C. Ensure that medical services, and transport to the nearest medical facility, if needed, are made available to the Supporting State's personnel regardless of the type or duration medically necessary. Once transported to the nearest medical facility, the Supporting State will assume responsibility.
- D. Immediately report a Serious Accident involving personnel from the Supporting State to its Principal Contact or designated representative. The Supporting State may request to participate in investigations involving its employees. Both parties shall determine and document in writing who shall cover costs for Supporting State's participation in the investigation.

The Supporting State shall:

- A. Meet date and time needed as agreed at time of request for assistance.
- B. Provide resources which meet the terms or standards specified by the Requesting State.
- C. Ensure that its personnel are self-sufficient to cover any medical costs, if necessary, while on assignment.
- D. Complete and approve documentation of hours worked, vehicle use, etc., daily in accordance with the NWCG Standards for Interagency Incident Business Management (PMS 902).

V. Equipment, Materials, and Supplies

Expendable supplies are considered direct costs. Therefore, if funds are available, the Requesting State shall replace expendable supplies or reimburse the Supporting State. Items shall be considered expendable if they are not reusable.

The Requesting State shall provide communications equipment, unless the parties mutually agree in writing that the Supporting State will supply the communications equipment.

VI. Limitations

The personnel and equipment standards the Requesting State needs shall govern the acceptance or refusal of any resources offered for assistance. If the Requesting State does not specify standards, the personnel and equipment standards the Supporting State uses within its own jurisdiction shall be deemed acceptable. The Supporting State's resources made available to the Requesting State through this Agreement shall be under the Supporting State's ultimate command and control but shall be under the limited operational control of the appropriate officials within the Requesting State's wildland fire management system.

Nothing in this Agreement impairs the parties' rights to recover costs, damages, or penalties from third parties under applicable state, federal, or tribal law.

VII. Liability

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. For the State of New Mexico, any liability incurred with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1, *et seq.*, as amended. For the State of Oregon, any liability incurred with this Agreement is subject to the immunities and limitations of the Oregon Tort Claims Act, Oregon Revised Statutes §§ 30.260 through 30.300.

If employees of the Supporting State are injured or a fatality occurs as a result of assisting the Requesting State, the Supporting State shall provide for the payment of compensation and death benefits in accordance with its employment benefits.

VIII. Equipment and Supply Claims

If funds are available, the Requesting State shall reimburse the Supporting State for damages to the Supporting State's equipment that occurred while the Supporting State provided assistance when loss or damage is directly attributed to the incident. The costs shall include only those costs that insurance does not cover. Loss or damage to Supporting State emergency equipment due to normal wear and tear or due to the operator's negligent or unlawful operation shall be the Supporting State's responsibility. If funds are available, if any equipment or supplies are damaged beyond repair or are not returned, the Requesting State shall replace the equipment or supplies with equipment or supplies of the same quantity and quality or reimburse the Supporting State.

IX. Supplementary Agreements

Nothing contained in this Agreement precludes the parties from entering into agreements with other compacts, states, or agencies, and this Agreement does not affect any other agreements already in force between such entities.

X. Billing Procedures

The Requesting State shall reimburse the Supporting State for all costs of mobilized resources in accordance with this Agreement. Indirect costs may be billed in accordance with each parties' established rate. The Requesting State may request estimates prior to mobilization or billing. Both parties shall provide the other with a current copy of the rates by January 1 of each year for the upcoming fire season.

The Supporting State may assume or donate, in whole or in part, the costs associated with assisting the Requesting State. The Supporting State shall submit an invoice with each incident itemized.

Billing Content: The Supporting State shall include the following items with each Itemized Bill:

- Incident Name
- Incident Number
- Flight Use Records
- Appropriate Fire Code or Accounting Code
- Travel Costs (per diem, lodging, etc.)
- Signature and Title of Agency Official
- W-9, Request for Taxpayer Identification Number and Certification

The Requesting State may require Source Documentation prior to reimbursing the Supporting State. Source Documentation includes, but is not limited to:

- Crew Time Reports, SF-261
- Emergency Equipment Shift Tickets, OF-297 or Vehicle Log
- Receipts (lodging, airfare, baggage fees, fuel, etc.)
- Payroll Reports
- Claim Documentation
- Copy of Supporting State's indirect cost rate

XI. Worker's Compensation

All personnel shall remain employees of their respective agencies and, therefore, the respective agency is responsible for all payroll costs, including payroll tax, Workers' Compensation, and other benefits.

XII. Licensing and Insurance

The Supporting State shall ensure its employees, contractors, and cooperators are appropriately licensed and insured for operation of the equipment or aircraft mobilized under this Agreement.

XIII. Implementation

- A. Commencement/Expiration: This Agreement becomes effective on the date of last signature and shall terminate on December 31, 2023, unless terminated earlier pursuant to Paragraph XIII.C., below.
- B. Modifications: Modifications to the scope of this Agreement shall be made by mutual consent of both parties, by the issuance of a written modification, signed and dated by both parties prior to any changes being performed. Neither party is obligated to fund any changes not properly approved in advance.
- C. Termination: Both parties to this this Agreement shall have the right to terminate participation in this Agreement by providing 30 days' written notice to the other.

XIV. Severability and Validity

Should a court of competent jurisdiction rule any portion, section, or subsection of this Agreement is invalid or nullified, such invalidity or nullification shall not affect, invalidate, or nullify any other portion, section, or subsection of the Agreement. All remaining portions, sections, and subsections shall remain in full force and effect.

XV. Principal and Billing Contacts

The following are the principal contacts for this Agreement:

State of New Mexico	State of Oregon
Name: Vernon Muller	Name: Ron Graham
Title: Resource Protection Bureau Chief/FMO Energy, Minerals and Natural Resources Department, Forestry Division	Title: Deputy Chief-Fire Protection Division Oregon Department of Forestry
Office: 505-476-3337	Office: 503-945-7271
Cell: 505-690-1069	Cell: 971-718-6862
VernonJ.Muller@state.nm.us	Ron.graham@oregon.gov


The following are the Billing Contacts for this Agreement:

State of New Mexico	State of Oregon
Francine Cordova	Stacy Miller
Fire Business Manager Energy, Minerals and Natural Resources Department, Forestry Division	Protection Finance Manager Oregon Department of Forestry
505-476-3312	503-945-7423
505-629-8318	503-701-0236
Francine.cordova@state.nm.us	Stacy.miller@oregon.gov

XVI. Appropriations and Authorization

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislatures of New Mexico and Oregon. If sufficient appropriations and authorization are not made by the Legislatures of each state, this Agreement shall terminate immediately upon written notice being given by one party to the other. Either party's decision as to whether sufficient appropriations are available shall be accepted by the other and shall be final.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates shown below.

STATE OF NEW MEXICO	
Energy, Minerals and Natural Resources Department Cabinet Secretary or Designee	
	
Signature and Title DEPUTY SECRETARY	Date 8/6/19
STATE OF OREGON	
Oregon Department of Forestry State Forester or Designee	
<i>See next page</i>	
Signature and Title	Date

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STATE OF OREGON	
Oregon Department of Forestry State Forester or Designee	
<i>Ron Buel</i> Deputy Chief - Protection	<i>7/29/2019</i>
Signature and Title	Date