

## GENERAL PROVISIONS TO STATE FORESTER'S COOPERATIVE RATE AGREEMENT FORM FM 104A (02/14)

This Cooperative Fire Rate Agreement is entered pursuant to the Cooperative Intergovernmental Agreement currently in effect between the State Forester and the Cooperator. The following terms and provisions apply, but in the event of a conflict between this Rate Agreement and the Cooperative Intergovernmental Agreement, the Cooperative Intergovernmental Agreement shall prevail.

Dispatch. At the time of dispatch, an Incident Order Number and Resource Number will be assigned. Cooperator shall furnish this number as well as a copy of the Cooperative Rate Agreement upon arrival and check in at the incident. When such resources are furnished to the Incident, the following provisions shall apply;

1. Condition of Equipment. The State reserves the right to reject equipment which is not in safe and operative condition. No payment will be made for rejected equipment.

2. Time Under Hire. Starts when the equipment and/or personnel begins travel to the incident, and ends when the equipment and/or personnel returns to the point of hire, except as provided in section 6(F) and 9 of this Agreement. Cooperator shall promptly notify the State when the equipment and/or personnel have returned to the point of hire.

3. Transportation of Equipment. Equipment may be transported at State expense from point of hire to the site of work and return, except as provided in section 9 and 8(a)(1) of this Agreement.

4. Operating Supplies. Operating supplies are to be provided by the Cooperator. Operating supplies may include but are not limited to fuel, oil, filters, lube/oil changes, and other incidentals necessary to keep the equipment operational. Though all operating supplies are to be furnished by the Cooperator, the State may, at its option, elect to furnish such supplies when necessary to keep the equipment operating. The cost of supplies provided by the State will be deducted from payment to the Cooperator.

5. Repairs. Repairs to equipment shall be made and paid for by the Cooperator. The State may, at its option, elect to make such repairs when necessary to keep the equipment operating. The cost of repairs made by the State will be deducted from payment to the Cooperator.

6. Timekeeping and Invoicing. Time will be reviewed and approved by the appropriate incident supervisor and/or the State Forestry representative responsible for ordering and/or directing use of each piece of equipment on the incident. Time will be recorded in military time as follows:

- a. Hourly rate - To nearest quarter hour.
- b. Daily rate - By calendar day except for first and last day, this will be recorded to nearest hour. Not to exceed total daily rate. See also section 8(a)(2).
- c. Mileage Rate - To nearest mile.
- d. Excessive Work Hours - Work shifts exceeding 16 hours after the first shift of the incident will not be paid unless accompanied by a written

justification on CTR or other incident documentation completed by the incident commander or immediate incident supervisor.

e. Meal breaks – Crews must take a minimum thirty minute meal break during each operational period. Meal breaks shall be documented on the crew time reports. If meal breaks are not documented on crew time reports, a written justification must be provided. The written justification must show compliance with the conditions referenced in the current National Wildfire Coordinating Group (NWCG) Incident Business Management Handbook (IBMH). In addition, thirty minute meal breaks shall be shown while in travel status unless the method of travel conveyance precludes stopping, as referenced in the current NWCG IBMH.

f. Refurbishment – Refurbishment/Rehabilitation will be allowed but will be restricted to the time it takes to bring the equipment or vehicle back to fire readiness. Allowable Refurbishment timeframes may be referenced in the Arizona State Forestry Billing Manual. Refurbishment exceeding these time frames must be approved by the State Foresters Office in advance.

g. Rest and Recuperation (R & R) - R&R may be reimbursed if it is the personnel policy of the cooperator to allow R&R for permanent full time and permanent part time personnel. Payment for R&R may not exceed the Days Off conditions listed in the current NWCG IBMH. A copy of the cooperator's policy allowing R&R must be filed with the corresponding State Forestry District Office before the beginning of the incident to be considered.

7. Invoices: Invoices to the State shall include the information in the State Invoice Format (State Form FM 122) and shall be signed by an authorized Cooperator's representative. Invoices shall be submitted to the State after release from the incident and within the specified time frame contained in the Intergovernmental Agreement. Invoices received outside this timeframe may be subject to refusal. Invoices shall be prepared in accordance with the State Billing Manual and shall contain the following attachments:

a. Completed Crew Time Reports (Federal Form SF261) and / or Emergency Equipment Shift Tickets (Federal Form OF-297) signed by the Incident Commander, Immediate Incident Supervisor or State Forester's representative. On extended Federal Incidents and Team Managed Incidents, Fire Time Reports (Federal Form OF288) and Emergency Equipment Use Invoices (Federal Form OF-286) are also required (**All forms to be original**).

b. Itemized receipts and resource order form with order #'s for authorized supply purchases are required and subject to state review and audit.

c. Incident based documentation: All inspections, reports, resource order #'s and justifications for damage or loss claims shall accompany invoice.

8. Payments.

a. Rates of payments: Payment for equipment and staffing furnished to the incident shall be in

accordance with the following, except as provided in section 9 of this Agreement:

(1) Hourly Work Rates (column 16): Shall apply to cooperators tactical and support apparatus, including federal excess cooperative property. Current State equipment rate sheets will be utilized to set these rates. Rates shall apply when the cooperator's resources are under hire as ordered by the State and on shift, including mobilization and demobilization of equipment under its own power. When apparatus is being transported (lowboy), a maximum of 4 hours per calendar day will be paid. Meal breaks do not apply to equipment.

(2) Daily Work Rates/Mileage Rates (use column 16-17 FM 104): Shall apply to light duty non-tactical vehicles, command vehicles and miscellaneous equipment. Payment will be made on the basis of calendar days. For fractional days at the beginning and end of the time under hire, the State will pay 50% of the daily rate for periods of less than 8 hours, and the full daily rate for periods of more than 8 hours. Current State equipment rate sheets will be utilized to set these rates. Daily work rates will apply to ATV's/UTV's but only when in actual use (wheels turning) and when documented on the Emergency Equipment Shift Ticket signed by the Incident Commander, incident Line Supervisor, or State Forestry Representative.

a. Personally Operated Vehicles (POV's): will be reimbursed at the current state vehicle rates and may include a daily rate for travel days between the incident and the point of hire. For fractional days at the beginning and end of the time under hire, payment will be based on 50% of the daily rate for periods less than 8 hours and at the full rate for periods greater than 8 hours. To receive payment for a daily rate for additional incident days, a justification signed by the Incident Commander, incident Line Supervisor, or State Forestry Representative must be written on the Emergency Equipment Shift Ticket demonstrating the POV's necessity. POV's must be included on the CFRA for compensation and proof of insurance must be included.

(3) Special Work Rates (column 17): If a specific work rate or work rate amendment is not in place for planned events within Arizona such as preparedness patrols, prescribed burns, and various non-emergency activities, the default equipment rate will be 50% of the standard hourly rate or 50% of the daily rate. In-State planned event default personnel rates will be as in section 8(4) and 8(5) of this Agreement, without allowance for excess costs due to backfill or coverage.

(4) Career Personnel Rates: Cooperator shall charge actual labor expenses including eligible overtime and employee related expenses in accordance with each department's pre-existing labor contracts and pay schedules. A copy of the shift schedule and pay schedule shall accompany the CFR agreement and be provided to the State. Pay schedule revisions occurring during the CFR agreement period will be provided to the State. Non budgeted costs to the fire department incurred for required backfill or coverage will be eligible.

(5) Volunteer and Supplemental Personnel Rates: Cooperator will charge the State for volunteer and supplemental fire personnel at the current rates outlined in the Arizona State Forester's Emergency Pay Plan For Seasonal Hires for the position for

which they were ordered. Supplemental Fire employees are defined per NWCG Memo #004-2009.

(6) Employer Related Expenses (ERE): Employer Related Expenses covered for time while on the assignment will be as follows:

- Workers Compensation
- Unemployment Insurance
- FICA taxes
- Employee Insurance
- Retirement
- Long term disability

(7) Administrative or Special Wildland Fire Incentive Fees: Administrative or Special Wildland Fire Incentive Fees/Pay will not be reimbursed.

(8) Standard Staffing (Column 15): Cooperator shall list the standard staffing for listed equipment. Standard staffing means the NWCG identified minimum staffing level plus 1 body for engines, and NWCG minimum staffing for water tenders. This does not restrict the State from ordering or requesting staffing that differs from this value. Staffing above the standard level must be documented and approved in the Resource Order accompanying the assignment. Equipment rates are for equipment only and do not include staffing.

b. Method of Payment: Lump-sum payment will normally be processed at the end of the emergency incident upon receipt of invoice and approval by the State Forester. See Arizona Revised Statute 37-623.02E.

## 9. Exceptions

a. No further payment under item 8 will accrue during any period that equipment under hire is not in a safe or operable condition or when Cooperator furnished staffing is not available.

(1) Equipment will be requested with the understanding that it may be on assignment for 14 days. Should a staffing swap be required before the completion of 14 days, prior approval by a State Forestry representative will be required before accepting the assignment.

b. If the Cooperator withdraws equipment and/or staffing prior to being released by the State, no further payment under item 8 shall accrue and the cooperator shall bear all costs of returning equipment and/or personnel to the point of hire.

c. After inspection and acceptance for use, equipment and/or furnished staffing that cannot be replaced or equipment that cannot be repaired at the site of work by the Cooperator or by the incident in accordance with Clause 5, within 24 hours, may be considered as being withdrawn by the Cooperator in accordance with paragraph b above, except that the incident will bear normal costs of returning equipment and/or personnel to the point of hire as promptly as emergency conditions will allow. Personnel assigned to inoperable equipment are limited to 8 hrs. of compensation per shift unless otherwise dictated by the home unit shift schedule.

10. Loss, Damage or Destruction. Equipment furnished under this agreement may be operated and subjected to extreme environmental and/or

strenuous operating conditions which could include but are not limited to unimproved roads, steep, rocky, hilly terrain, dust, heat, and smoky conditions.

As a result, by entering into this Agreement, the Cooperator agrees that what is considered wear and tear under this Agreement is in excess of what the equipment is subjected to under normal operations and is reflected in the rates paid for the equipment. No reimbursement will be made for loss, damage or destruction when (a) it is due to normal wear and tear, or (b) negligence of the Cooperator or the Cooperator's agents caused or contributed to the loss, damage or destruction, or (c) the damages are caused by equipment defects unless such defects are caused by negligence of the State or its employees.

#### 11. Meal and Lodging Expense Reimbursement:

a. In-State: The Cooperator will provide and/or pay for their own food and drinks for the first 12 hours of an in-state assignment. The State may, at its discretion, provide meals for in-state assignments within this 12 hour period at no cost to the Cooperator. Meals not provided after the first twelve hours of the incident and purchased by the Cooperator may be reimbursed according to the current State fire travel meal rates for breakfast, lunch, or dinner including a reasonable gratuity. The current reimbursable rates are included in the ASFD Billing Procedures Manual. Lodging costs will not be reimbursed for in-state assignments, excluding travel status, unless approved by the incident or dispatch office. Approved in-state lodging may be reimbursed according to current State travel policy.

b. Out-of-State: Cooperators may be reimbursed individual meals and lodging while traveling to and from out-of-state assignments where such costs are not provided by the incident. Meals will be reimbursed according to current State travel meal rates for breakfast, lunch, or dinner including a reasonable gratuity. The current reimbursable rates are included in the ASFD Billing Procedures Manual. Travel time will begin from the time the resources left for the assignment. Out-of-State lodging may be reimbursed. Current Out-of-State lodging rates are included in the ASFD Billing Procedure Manual. Meals and lodging purchased by the Cooperator while at the incident will not be reimbursed unless approved and documented by the incident.

c. Miscellaneous: Reimbursement for miscellaneous costs associated with the incident will be at the discretion of the State.

#### 12. Safety Requirements

a. The cooperator is required to comply with all applicable rules and regulations issued by the Arizona Industrial Commission Occupational Safety Codes, Title 23, Chapter 2, Article 10.

b. Current NWCG Qualifications Standards including the 3-22-04 NWCG Initial Action Clarification Memo shall apply. During initial response actions, minimum firefighter qualifications shall be completion of NWCG FFT2 training. Individuals at or above single resource boss and unit leader trainee level shall be approved by the State Qualifications Committee.

c. Fire department personnel must be a minimum

of 18 years of age and in adequate physical condition to meet the NWCG Standard 310-1 designated physical requirements for the position for which they were ordered.

d. Personal Protective Equipment- Cooperators must supply and utilize the following minimum required personal protective equipment for wildfire response: hardhat, goggles, long sleeve fire resistant shirt, fire resistant trousers, leather lace up boots with a minimum 8" top and non-skid soles, leather work gloves, and a fire shelter. Personal protective equipment shall meet current NFPA standards where applicable.

13. Disputes. In the event of a dispute, the parties agree to arbitrate the dispute to the extent required by A.R.S. § 12-1518.

14. Termination. The State may cancel this agreement without penalty or further obligation pursuant to A.R.S. § 38-511.

15. Failure to adhere to these provisions may result in the cooperator forfeiting all rights to payment.

16. Audit. Within a 5 year period of invoice submittal, the state at its discretion may request a review of fire invoicing documentation.

17. The Parties agree to comply with all applicable Federal or State laws relating to equal opportunity and non-discrimination.

Pursuant to A.R.S. § 35-214, the Cooperator shall retain all data, books and other records ("records") relating to this Contract for a period of five years after completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Cooperator shall produce the original of any or all such records.

This agreement shall be subject to available funding, and nothing in this agreement shall bind the State to expenditures in excess of funds appropriated and allotted for the purposes outlined in this agreement.

The Cooperator assigns to the State any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplies by third parties to the Cooperator toward fulfillment of this Contract.

The Cooperator warrants its compliance with Federal Immigration Laws.