for losses or costs that have been reimbursed under the Individual and Family Grant Program or any other FEMA Individual Assistance Program.

(5) *Worker's compensation claims.* Individuals who have suffered injuries that are compensable under State or Federal worker's compensation laws must apply for all benefits available under such laws.

Subpart D—Claims Evaluation

§ 295.30 Establishing losses and damages.

(a) *Burden of proof.* The burden of proving Losses and damages rests with the Claimant. A Claimant may submit for the Administrative Record a statement explaining why the Claimant believes that the Losses and damages are compensable and any documentary evidence supporting the claim. Claimants will provide documentation, which is reasonably available, to corroborate the nature, extent and value of their losses and/or to execute affidavits in a form established by OCGFC. FEMA may compensate a Claimant for a Loss in the absence of supporting documentation, in its discretion, on the strength of an affidavit or Proof of Loss executed by the Claimant, if documentary evidence substantiating the loss is not reasonably available. FEMA may request that a business Claimant execute an affidavit, which states that the Claimant will provide documentary evidence, including but not limited to income tax returns, if requested by our DHS Office of the Inspector General or the Government Accountability Office during an audit of the claim.

(b) *Proof of Loss.* All Claimants are required to attest to the nature and extent of each Loss for which compensation is sought in the Proof of Loss. The Proof of Loss, which will be in a form specified by OCGFC, must be signed by the Claimant or the Claimant's legal representative if the Claimant is a not an individual or is an individual who lacks the legal capacity to execute the Proof of Loss. The Proof of Loss must be signed under penalty of perjury and subject to the provisions of 18 U.S.C.1001, which establishes penalties for false statements. Non-subrogation Claimants who filed a Notice of Loss

before January 1, 2001 should submit a signed Proof of Loss to OCGFC not later than June 19, 2001. Non-subrogation Claimants who file a Notice of Loss on or after January 1, 2001 should submit a signed Proof of Loss to OCGFC not later than 150 days after the date when the Notice of Loss was submitted. These deadlines may be extended at the discretion of the Director of OCGFC for good cause. If a non-subrogation Claimant fails to submit a signed Proof of Loss within the timeframes set forth in this section and does not obtain an extension from the Director of OCGFC, OCGFC may administratively close the claim and require the Claimant to repay any partial payments made on the claim. Subrogation Claimants will submit the Proof of Loss contemporaneously with filing the Notice of Loss.

(c) *Release and Certification Form.* All Claimants who receive compensation under the CGFAA are required to sign a Release and Certification Form. The Release and Certification Form must be executed by the Claimant or the Claimant's legal representative if the Claimant is an entity or lacks the legal capacity to execute the Release and Certification Form. The Release and Certification Form must be received by OCGFC within 120 days of the date when the Authorized Official's Determination is rendered under § 295.32, or if subsequent proceedings occur under Subpart E of these regulations, not later than 60 days after the date when further review of the decision (if available) is precluded. The United States will not attempt to recover compensatory damages paid to a Claimant who has executed and returned a Release and Certification Form within the periods provided above, except in the case of fraud or misrepresentation by the Claimant or the Claimant's representative, failure of the Claimant to cooperate with an audit as required by § 295.35 or a material mistake by FEMA.

§ 295.31 Reimbursement of claim expenses.

(a) FEMA will reimburse Claimants for the reasonable costs they incur in copying documentation requested by OCGFC. FEMA will also reimburse Claimants for the reasonable costs

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they incur in providing appraisals, or other third-party opinions, requested by OCGFC. FEMA will not reimburse Claimant for the cost of appraisals, or other third party opinions, not requested by OCGFC.

(b) FEMA will provide a lump sum payment for incidental expenses incurred in claims preparation to individual and business Claimants that are awarded compensatory damages under the CGFAA after a properly executed Release and Certification Form has been returned to OCGFC. The amount of the lump sum payment will be the greater of $100 or 5% of CGFAA compensatory damages and insurance proceeds recovered by the Claimant for Cerro Grande Fire related losses (not including the lump sum payment or monies reimbursed under the CGFAA for the purchase of flood insurance), but will not exceed $15,000. No more than one lump sum payment will be made to all Claimants in a Household, regardless of whether the Household filed separate or combined Notices of Loss. The following Claimants will not be eligible to receive the lump sum payment: subrogation Claimants and Claimants whose only Cerro Grande Fire related loss is for flood insurance premiums.

§ 295.32 Determination of compensation due to claimant.

(a) *Authorized Official's report.* After OCGFC has evaluated all elements of a claim as stated in the Proof of Loss, the Authorized Official will issue, and provide the Claimant with a copy of, the Authorized Official's Determination.

(b) *Claimant's options upon issuance of the Authorized Official's determination.* Not later than 120 days after the date that appears on the Authorized Official's Determination, the Claimant must either accept the findings by submitting a Release and Certification Form to FEMA or initiate an Administrative Appeal in accordance with § 295.41. The CGFAA requires that Claimants sign the Release and Certification Form to receive payment on their claims (except for partial payments). The Claimant will receive payment of compensation awarded by the Authorized Official after FEMA re-ceives the completed Release and Certification Form. If the Claimant does not either submit a Release and Certification Form to FEMA or initiate an Administrative Appeal no later than 120 Days after the date that appears on the Authorized Official's Determination, he or she will be conclusively presumed to have accepted the Authorized Official's Determination. The Director of OCGFC may modify the deadlines set forth in this subsection at the request of a Claimant for good cause shown.

§ 295.33 Supplementing claims.

A Claimant may amend the Notice of Loss to include additional claims at any time before signing a Proof of Loss. After the Claimant has submitted a Proof of Loss and before submission of the Release and Certification Form, a Claimant may request that the Director of OCGFC consider one or more Losses not addressed in the Proof of Loss. The request must be submitted in writing to the Director of OCGFC and received not later than the deadline for filing an Administrative Appeal under § 295.32 or August 28, 2002, whichever is earlier. It must be supported by the Claimant's explanation of why the Loss was not previously reported. If good cause is found to consider the additional loss, the Director will determine whether compensation is due to the Claimant for the Loss under the Administrative Appeal procedures described in § 295.41.

§ 295.34 Reopening a claim.

(a) The Director of OCGFC may reopen a claim if requested to do so by the Claimant, notwithstanding the submission of the Release and Certification Form, for the limited purpose of considering issues raised by the request to reopen if:

(1) The Claimant desires mitigation compensation and the request to reopen is filed not later than August 28, 2003 in accordance with § 295.21(d) or (h); or

(2) The Claimant closed the sale of real property not later than August 28, 2002 and wishes to present a claim for reduction in the value of the real property under § 295.21(e) and the request to