



# Hermit's Peak/Calf Canyon Program Appeals Guide

Version 1, November 2024



FEMA

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## INTRODUCTION

### Purpose

The Hermit's Peak/Calf Canyon Claims Office (Claims Office) Program Appeals Guide (Appeals Guide) identifies the policies, provides the procedures, and establishes the responsibilities related to the Claims Office's appeals process as set forth in 44 C.F.R. § 296.41. Through the appeals process, claimants may dispute the Claims Office's prior compensation determinations.

The Appeals Guide:

- Outlines the Claims Office's appeal process.
- Provides guidance on appeal rights and requirements.
- Establishes uniform appeals-related processes and procedures for Claims Office staff.
- Defines terms related to the appeals process.

### Scope and Applicability

The Appeals Guide applies to all Claims Office staff involved in processing and responding to appeals. It is intended for use by Claims Office personnel only and should not be referenced as an authoritative source when making eligibility determinations or when submitting or responding to appeals.

Unless noted otherwise, all references to numbers of days are calendar days (not business days).

### Supersession

This Hermit's Peak/Calf Canyon Claims Office Program Appeals Guide is Version 1 and does not replace a previous version.

### Authorities and Foundational Documents

Several foundational documents provide the statutory, regulatory, and policy foundations for the Appeals Guide. Key foundational documents include the following:

- Hermit's Peak/Calf Canyon Fire Assistance Act, Division G of Pub. L. 117-180 (2022)
- Title 44 of the Code of Federal Regulations (C.F.R.) Part 296 (2023)

- Federal Emergency Management Agency (FEMA) Hermit's Peak/Calf Canyon Claims Program and Policy Guide (PPG) (Version 1.1, May 23, 2024)

## Delegation of Authority to Administer the Appeals Process

The Director of the Claims Office has delegated the day-to-day management of administrative appeal requests to the Appeals Administrator. The Appeals Administrator is responsible for reviewing all appeal requests, including considering any supplemental documentation provided within the allowable supplementation period.

The Appeals Administrator will issue a written decision on the administrative appeal, which will be provided to the claimant by email or mail. This decision will constitute the final decision of the Administrator of FEMA under the authority provided in the applicable regulation. Upon issuance of the appeal decision, the administrative record for the claim is closed.

## Revisions and Supplemental Information

An electronic version of the guide will be available on the Claims Office's public website (<https://www.fema.gov/disaster/current/hermits-peak>).

When warranted, the Claims Office will issue instructional memoranda and job aids intended for internal use by Claims Office staff. These materials are meant to provide further guidance on the procedures outlined in this guide for internal operations.

## Document Management and Maintenance

The Appeals Section within the Claims Office is responsible for managing and maintaining this document.

## Questions

Questions or comments concerning the contents of the guide should be addressed to [FEMA-Hermits-Peak-Appeals@FEMA.DHS.gov](mailto:FEMA-Hermits-Peak-Appeals@FEMA.DHS.gov).

## APPEAL RIGHTS AND REQUIREMENTS

The Hermit's Peak/Calf Canyon Fire Assistance Act (the Act) and 44 C.F.R. Part 296 establish the rights, requirements, and procedures for claimants appealing a determination. Further details are available in the Hermit's Peak/Calf Canyon Claims PPG, Version 1.1, May 23, 2024. All external communications and citations regarding appeal rights and requirements shall reference these official sources.

This guide provides an overview of the appeals process and guidance that FEMA personnel will follow. In cases where this guidance conflicts with the Act or regulation, the statute or regulation takes precedent.

### Request An Appeal

This section outlines the essential steps for claimants to file an appeal if they believe an Authorized Official's determination is incorrect.<sup>1</sup>

#### Letter of Determination

Once the Claims Office has completed its evaluation of a claim, based on the final sworn Proof of Loss (POL), the Authorized Official will issue a final Letter of Determination (LOD). The LOD includes:

- **Explanation of Denied Loss Line Items (LLIs):** A list of approved and denied LLIs, with specific amounts denied for each LLI, if applicable.
- **Basis for Denial:** Details supporting the payment differences for each LLI, such as duplication of benefits.
- **Appeal Rights and Instructions:** Guidance on the claimant's rights to appeal the decision, including submission methods, and deadlines.

The LOD represents the Authorized Official's determination after a complete evaluation of the claim. However, it is not the final decision of the FEMA Administrator, as outlined in sections 104(d)(2)(B) and 104(i)(1) of the Act. The Director of the Claims Office's decision on the Administrative Appeal will constitute the final decision of the Administrator.<sup>2</sup>

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<sup>1</sup> 44 C.F.R. § 296.41.

<sup>2</sup> 44 C.F.R. § 296.41(h)

## Appeal Submission Criteria

Claimants may appeal any portion of their claim once the Authorized Official issues a final LOD, with the following exceptions:

- **Partial Payments:** Claimants may not appeal decisions related to partial payments until an LOD has been issued for all elements of the claim.
- **Signed Release and Certification (R&C) Forms:** Claimants may not appeal partial or final payments for which they have already signed an R&C form, as this indicates acceptance of the determination.

The Appeals Section will only accept one appeal per claim. All issues or elements in dispute should be raised within this single appeal submission, as additional appeals or modifications to the original appeal will not be accepted after the 120-day deadline following the final LOD.

## Appeal Timeframes

Claimants must submit their appeal within **120 days** from the date on the final LOD.<sup>3</sup> Appeals filed after this deadline will be dismissed unless the Appeals Administrator grants an extension for “good cause shown,”<sup>4</sup> as explained below.

If the claimant does not submit an R&C Form or initiate an appeal within the 120-day period, the Authorized Official’s determination will be conclusively presumed accepted by the claimant.<sup>5</sup>

## Extensions for Good Cause

If a claimant needs additional time to file an appeal or submit further documentation, they may request an extension by demonstrating “good cause.” This includes cases where a claimant submits an appeal after the original 120-day deadline, provided they can show good cause for the delay.

- **Requesting an Extension:** If a claimant has a valid reason for a delay in submitting their Notice of Appeal (NOA), they should identify this reason at the time of filing. If no explanation is provided with the late NOA, the Appeals Section will issue a letter requesting the reason for

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<sup>3</sup> 44 C.F.R. § 296.41(a)

<sup>4</sup> 44 C.F.R. § 296.41(c)

<sup>5</sup> 44 C.F.R. § 296.41(i)

the untimely submission. The claimant must then respond with a written explanation of the circumstances by the deadline provided in the letter.

- **Examples of Good Cause:** Good cause may include situations where a claimant, through no fault of their own, could not access needed data or documentation in time to submit an appeal, or where the claimant experienced an undue hardship or a significant change in circumstances affecting their ability to meet the deadline. Specific examples of good cause include:
  - Hospitalization
  - Incarceration
  - Military Service
  - Declared Disaster or Event
  - Inability to transmit relevant information or data due to circumstances beyond the claimant's control. Extensions may apply to the following deadlines:
- **120-Day Deadline:** For filing an appeal
- **60-Day Deadline:** For submitting supplemental information, which may include requesting a conference.

To request an extension, claimants must submit a written explanation by email or mail, detailing why they are unable to meet the original deadline. Requests must be postmarked, delivered, or electronically time-stamped and directed to the Appeals Docket (see contact information in the *Methods for Submitting an Appeal* section). Extensions are granted at the discretion of the Appeals Administrator and are intended to accommodate unforeseen circumstances that may prevent timely submission of necessary documents.

## Counting Days

If an appeal deadline falls on a Saturday, Sunday, or Federal Holiday, the appeal will be considered timely if submitted by the next business day.

## Notice of Appeal

To initiate the appeals process, claimants must submit an NOA in writing to the Appeals Section of the Claims Office. The appeal process will not commence unless the Appeals Section receives a properly completed NOA, regardless of any statements rejecting portions of the Letter of Determination (LOD). An appeal may be initiated by completing the standard NOA form (Appendix C) provided by the Claims Office or by submitting a letter.



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.

## REQUIRED INFORMATION FOR A COMPLETE NOA

The NOA must include the following information to be deemed complete. If any required elements are missing, the Appeals Section will notify the claimant in writing that the submission is incomplete and that the appeal cannot proceed until all the following information is provided:

- Statement of Disputed Determination:** A statement explaining why the Authorized Official's determination is incorrect.
- Appealed LLI:** The appealed Loss Line Item, name and/or description as indicated on the final Letter of Determination.
- Claimant and Claim Information:** The claimant's name on the claim and the proper claim number(s).
- Dollar Amounts in Dispute:** The specified dollar amounts in dispute for each Loss Line Item (specifically the amount requested and the rejected).

## NOA FORMAT

While the Claims Office provides a NOA form for claimant convenience, use of this form is not mandatory. Any written format will be accepted if it meets the criteria for an appeal and includes all the required information outlined above.

## Methods for Submitting an Appeal

Claimants may submit an NOA to the Appeals Section by mail, email, or in person.

- **Email:** [fema-hermits-peak-appeals@fema.dhs.gov](mailto:fema-hermits-peak-appeals@fema.dhs.gov)

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

- **Office Locations:** For a list of Claims Office locations and operating hours, please visit: <https://www.fema.gov/disaster/current/hermits-peak/contact-us>.

## Appeal Is Reviewed

Upon receiving a claimant's NOA, the Appeals staff will acknowledge receipt, determine if the NOA is suitable for a review, provide the claimant with a copy of the administrative record, and accept any supplemental information, including documentation gathered through conferences and hearings.

### Appeal Receipt Letters

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

- **Appeal Acknowledgment Receipt:** If the NOA is received **on time**, claimants will receive an Acknowledgement Letter and, shortly thereafter, a copy of their Administrative Record.
- **Untimely Appeal Receipt:** If the NOA is received **after the deadline**, the claimant will be notified and given instructions on how to demonstrate "good cause" for the late submission.
- **Premature Appeal Receipt:** If the NOA is submitted prematurely, the Claims Office will instruct claimants to await a final LOD that comprehensively addresses all their POLs.
- **Incomplete Appeal Receipt:** If the NOA is incomplete, the Claims Office will instruct claimants to provide any missing elements of the NOA.

### Administrative Record

The Administrative Record includes all information submitted by the claimant, along with relevant documentation collected by the Claims Office used in evaluating the claim and determining the Authorized Official's decision.

The Administrative Record also encompasses any additional documentation provided by the claimant or gathered by the Claims Office during the appeals process, as well as the final Administrative Appeal Decision. However, these additional items are not added to the record until the administrative appeal process is complete.

For timely appeals, claimants will receive a copy of their Administrative Record as it existed prior to the appeal. Upon issuing an Appeal Acknowledgment Receipt, Appeals staff will send an Administrative Record Transmittal letter providing the claimant with a copy of the complete administrative record as it appeared before the appeal was filed.

The Administrative Record does not include memoranda or work papers that are pre-decisional documents or drafts prepared by Claims Office personnel.

Claimants should review the record to confirm that all evidence supporting their claim has been included and considered by the Authorized Official. If any material evidence is missing and is relevant to the appeal, it should be submitted promptly to the Appeals Docket within 60 days of filing the Notice of Appeal (NOA), prior to the end of the supplemental filing period.

Claimants are requested to confirm receipt and access of the Administrative Record after it has been provided to them.

## Standard of Appeals Review

The Appeals Administrator reviews eligible administrative appeal requests *de novo*. This means the Appeals Administrator will conduct an independent review of all documentation from the original Authorized Official's determination, as well as any additional documentation submitted with the appeal or within 60 days of the appeal's submission. Any relevant documentation may be submitted, even if it was not previously submitted during the initial claims review.

## Supplemental Filings by Claimant

Claimants may provide additional information and documentation in support of their administrative appeal within **60 days** of filing the NOA. This supplemental period allows claimants to strengthen their appeal by submitting relevant evidence, regardless of whether that documentation was previously submitted to the Claims Office.

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.

Claimants can include any information they believe is necessary to clarify or support the issues raised in their appeal. This includes records, receipts, statements, or other documentation not available or provided at the time of the initial claim submission.

All supplemental documents should be sent to the Appeals Docket by the end of the 60-day period to ensure they are included in the appeal review.

The Claims Office may extend these timeframes for good cause at the request of the claimant (see *Extensions for Good Cause* section in this guide).

## Requests for Information (RFI)

The Appeals staff may issue a Request for Information (RFI) to obtain additional documentation or clarification necessary to support the appeal. This RFI is distinct from the standard 60-day period provided to claimants for submitting supplemental information. RFIs are issued in writing, specifying the information required and providing a deadline for response.

If an RFI is issued, the following guidelines apply:

- **Deadline for Response:** The RFI will include a submission deadline. Claimants may request an extension to gather and provide the required documentation if needed, which may be granted at the Appeals Administrator's discretion.
- **Extension of Supplemental Period:** If an RFI is issued after the initial 60-day supplemental period, the deadline will be adjusted to allow the claimant sufficient time to submit the requested information. Any information provided in response to an RFI may extend the supplemental period to ensure the Appeals staff has a complete record to support a fair review.

The RFI process ensures that the Appeals Administrator has all relevant information from both claimants and Claims Office personnel to thoroughly address the issues outlined in the NOA and make an informed determination.

## Conferences

Either the claimant or the Appeals Administrator may request a conference if they believe that written information alone is insufficient to fully understand the appeal. The conference provides an opportunity for both parties to discuss the appeal and any associated documentation in greater depth. Conferences are typically conducted virtually unless the claimant can demonstrate a compelling need for an in-person meeting.

### REQUESTING A CONFERENCE

- Claimants must request a conference within **60 days** of filing their NOA as part of the supplemental filings. Extensions may be granted based on good cause.
- Requests must be submitted **in writing**, using any of the methods described in the "Methods for Submitting an Appeal" section.
- If the claimant would like a **mediator** to be appointed for the conference, this request should be included in the conference request.

### CONFERENCE FORMAT AND DURATION

Absent extraordinary circumstances, a conference will be scheduled for no more than 120 minutes. The discussion can focus on:

- Discussing RFIs issued by the Claims Office.
- Examining the documents and evidence provided in response to the RFIs.
- Exploring possible settlement options, where appropriate.

## **CONFERENCE OUTCOME**

Following the conference, the Appeals Administrator will evaluate whether further actions, such as additional RFIs or further document review, are necessary to resolve the appeal. The conference outcome is intended to help the Appeals staff determine the completeness of the information provided, ensuring that all relevant evidence has been considered before proceeding to the final agency decision. The claimant will not receive a final Administrative Appeal Decision during the conference.

## **MEDIATOR INVOLVEMENT**

The claimant may request a mediator to support facilitation of the conference. The Appeals Administrator will grant the request if it determines a mediator will support resolution of the appeal. If the Appeals Administrator elects to engage a mediator to facilitate the conference, FEMA will cover those expenses. The mediator's role is solely to support the discussion; they do not have decision-making authority. Decision-making remains exclusively with the Appeals Administrator.

## **REASONABLE ACCOMMODATIONS**

The Appeals Section will provide interpreters or other reasonable accommodation if requested prior to the conference or hearing.

If the claimant lacks access to necessary electronic equipment or internet, an in-person conference may be arranged at an agreed-upon time and location in or near Santa Fe, Mora, or San Miguel Counties in New Mexico.

## **Hearings**

A hearing may be convened if the Appeals Section determines that oral testimony from witnesses or experts is required to supplement the appeal's administrative record. (Collecting and transcribing oral testimony for the record distinguishes hearings from conferences.) These hearings are informal and do not follow formal court procedures or rules of evidence, although they will be sworn and transcribed. Hearings serve to further clarify issues that may impact the appeal determination, but they do not immediately resolve the appeal.

## **CRITERIA FOR SCHEDULING A HEARING**

A hearing will only be scheduled if the Appeals Administrator concludes that collecting oral testimony for the administrative record is necessary to clarify issues related to the appeal. The Appeals Section will coordinate with the claimant or claimant's representative on a mutually agreeable date for the hearing with at least two weeks' notice.

## **ROLE OF THE HEARING OFFICER**

The Appeals Administrator will appoint a Hearing Officer from within the Claims Office staff to manage the hearing process. The Hearing Officer serves as an impartial facilitator responsible for gathering information but does not make the appeal decision.

## **HEARING FORMAT AND STRUCTURE**

Hearings are generally conducted virtually. However, in limited cases—such as when the claimant lacks access to electronic equipment or the internet—an in-person hearing may be arranged at an agreed-upon location in or near Santa Fe, Mora, or San Miguel Counties in New Mexico. Hearings are typically limited to 90 minutes, though this may be extended if the issues are complex.

The hearing structure includes the following steps:

1. **Introduction and Verification:** The Hearing Officer will introduce all participants, verify the claimant's identity according to FEMA's standard procedures, and outline the hearing's purpose and format.
2. **Swearing-in of Participants:** All witnesses, experts, and participants will be sworn in to testify under penalty of perjury, and the hearing will be transcribed as part of the Administrative Record.
3. **Presentation of Oral Testimony:** Both the claimant and the Claims Office may present witnesses to testify on relevant factual matters that cannot be documented in written form. The Appeals Analyst will work with the claimant to identify potential witnesses and provide summaries of their expected testimony, along with explanations of its relevance to the appeal.
4. **Questioning:** The Hearing Officer may ask questions to facilitate information gathering and ensure effective presentation of evidence. Participants may also pose questions to witnesses, but only questions within the scope of the hearing that are relevant and not intended to intimidate, harass, or embarrass the witness will be allowed. If rebuttal witnesses are identified, they may present testimony as well.

## **DOCUMENTATION AND ACCESS TO TRANSCRIPTS**

All hearings are transcribed, and the transcript becomes part of the claimant's Administrative Record. Claimants will have access to the transcript upon request.

## **INTERPRETER AND ACCOMMODATION SERVICES**

The Appeals Section will provide interpreters (to the extent available for the requested language) or other reasonable accommodations if the claimant identifies the need before the hearing, ensuring that all participants can fully engage in the process.

## POST-HEARING ACTIONS

This hearing process provides an opportunity for claimants to clarify their evidence, explain its relevance, and respond to questions that may arise. Following the hearing, the Appeals Administrator will determine whether further actions, such as additional RFIs or further document review, are necessary to support the appeal.

## Appeal Decision

The Appeals Administrator will close the Administrative Record after the time to submit additional documentation has passed or when the claimant notifies the Appeals Section that they have no additional documentation to submit, whichever comes first. The Appeals Administrator will review the appeal based on applicable laws, regulations, and policies. The Appeals Administrator will issue a written decision on the administrative appeal and provide the decision by email or mail.

### Administrative Appeal Decision

The Administrative Appeal Decision letter is sent to claimants who have appealed an initial decision from the Claims Office. The decision on the administrative appeal constitutes the final decision of the Administrator of FEMA.<sup>6</sup> This letter explains the Appeal Administrator's findings, based on FEMA policies and the claimant's specific circumstances in the administrative record, and details the reasons for upholding or denying the appeal.

In this letter, claimants will find:

- An overview of the specific appeal request under review and a summary of the final agency decision.
- Information on next steps, including options for arbitration or judicial review, if the claimant disagrees with the decision.
- Clear instructions on response timelines and any additional processes available to the claimant.

## APPEAL ANALYSIS

Attached to the Administrative Appeal Decision letter, which summarizes FEMA's final decision, claimants will receive an appeal analysis. This document explains how FEMA policies are applied to the claimant's specific case and offers clear, actionable guidance on the appeal outcome.

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<sup>6</sup> 44 C.F.R. § 296.41(h).

## SETTLEMENT AGREEMENT

The Claims Office may choose to engage in settlement discussions with a claimant to provide a final resolution of their appeal. In some situations, the Appeals Administrator may make a settlement offer for all or only a portion of the appeal. If accepted, the claimant will sign a settlement agreement that is binding on the claimant and the United States for the LLIs included in the settlement agreement.<sup>7</sup> If the settlement agreement grants additional compensation, the claimant will be eligible to receive additional Claims Preparation Expenses (CPEs) of 5% if the maximum eligible amount of \$25,0000 has not been met.

## APPEAL DOCUMENT INDEX (ADI)

The Appeals Section will compile a complete index of documents and materials relevant to the appeal, ensuring proper identification of documents referenced in the Administrative Appeal Decision. The ADI is included with the Administrative Appeal Decision.

## Claimant's Options Following Appeal

If the claimant agrees with the Appeals Administrator's decision, no further action is needed, and FEMA will process any additional compensation awarded once the claimant submits a signed Release and Certification (R&C) form or settlement agreement.

If the claimant disagrees with the decision, they have two options:

- **Arbitration:** The claimant may initiate arbitration in accordance with 44 C.F.R. § 296.42. This process provides a binding resolution to the dispute and is not subject to judicial review.
- **Judicial Review:** Alternatively, the claimant may seek judicial review of the decision in accordance with 44 C.F.R. § 296.43.

The claimant has 60 days from the date of the Administrative Appeal Decision to dispute that decision through arbitration or judicial review. If the claimant does not pursue arbitration or judicial review within 60 days, it will be conclusively presumed that they concur with the Appeals Administrator's decision, which will then serve as the final resolution of the dispute with no further options for appeal within FEMA.

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<sup>7</sup> 44 C.F.R. §296.30(d).



## ADDITIONAL PROVISIONS

### Issues Pending Judicial Review

The Appeals Section acknowledges that certain policies and regulations are currently pending judicial review, which may delay final decisions on appeals involving contested issues. To ensure timely compensation wherever possible while complying with legal processes, the Appeals Section manages appeals with pending litigation as follows:

In appeals containing issues pending judicial review, the Appeals Section will place the appeal, or portions of it, on hold (“in abeyance”) until the courts render a decision. The Appeals Section will notify claimants when their appeal is on hold, along with the reasons for the delay and any applicable timelines for supplemental documentation. The following procedures apply.

#### All Appealed Loss Line Items (LLIs) Under Judicial Review

If all appealed LLIs are under judicial review:

- The appeal will be accepted. The claimant may submit supplemental documentation within the established timeframes.
- The Claims Office will not issue a final decision until the court has fully adjudicated the issue(s) pending judicial review.

#### Some Appealed LLIs Under Judicial Review, While Others Are Not

If some, but not all, appealed LLIs are under judicial review:

- The Claims Office will accept the appeal and supporting documentation, proceeding with a review of only the items not impacted by the pending judicial review.
- For LLIs with issues that are not pending judicial review, the Claims Office will conduct a full evaluation and may issue partial compensation, if warranted.
- If compensation is due on LLIs with issues that are not pending judicial review, the Claims Office will propose a settlement for those items.
- The Claims Office will issue a final determination on the entire appeal, including the items under judicial review, only after the court has rendered its decision on the relevant issue(s).

## Withdrawing an Appeal

Claimants may withdraw their appeal at any time by submitting a written request to the Claims Office. Withdrawing an appeal does not restart the 120-day deadline to file an appeal. Upon receiving the withdrawal request, the Claims Office will provide written confirmation and instructions regarding any previously authorized payments.

If the Claims Office Appeals Section does not receive a signed R&C form or a new NOA within the 120-day filing deadline, it will conclusively presume that the claimant has accepted the final determination outlined in the LOD.

## Claimant Expenses

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

# Appendix A: Acronyms and Abbreviations

AAA	Appeals, Audits, and Arbitration Branch
AAD	Administrative Appeal Decision
C.F.R.	Code of Federal Regulations
FEMA	Federal Emergency Management Agency
LLI	Loss Line Item
LOD	Letter of Determination
NOA	Notice of Appeal
OCC	Office of Chief Counsel
POL	Proof of Loss
PPG	Program and Policy Guide
R&C	Release and Certification
RFI	Request for Information
SME	Subject-Matter Expert

## Appendix B: Definitions

**Administrative Appeal:** An appeal of the Authorized Official's determination to the Director of the Claims Office in accordance with the provisions of Subpart E of 44 C.F.R. §296.

**Administrative Appeal Decision:** The written decision of the Claims Office regarding a claimant's administrative appeal.

**Administrative Record:** All information submitted by the claimant and all information collected by the Claims Office concerning the claim, which is used to evaluate the claim and to formulate the Authorized Official's determination. It also includes all information that is submitted by the claimant or Claims Office during the appeals process and the Administrative Appeal Decision. Memoranda and work papers of FEMA attorneys, pre-decisional documents, and drafts of documents prepared by Claims Office personnel, are not included.

**Record Transmittal Letter:** A letter sent by the Claims Office to a claimant who timely submits a Notice of Appeal, with the Record on the claim as an enclosure.

**Appeals Administrator:** The FEMA official responsible for administering the Claims Office's appeals procedures to resolve disputes regarding a claim.

**Appeals Analyst:** FEMA personnel assigned by the Appeals Administrator to manage one or more appeals and draft the Administrative Appeal Decision.

**Authorized Official:** An employee of the United States who is delegated authority by the Director of the Claims Office to render binding determinations on claims and to determine compensation due to claimants under the Hermit's Peak/Calf Canyon Fire Assistance Act.

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

**Conference:** Meeting held during the appeals process for the Claims Office to understand issues associated with the appeal and explore settlement or compromise possibilities. Conferences are held at the discretion of the Appeals Administrator but may be requested by claimants.

**Good Cause:** Justification provided by a claimant to support a request for an extension. May include an explanation where a claimant, through no fault of their own, may not be able to timely access or transmit needed information, or other instances in which the Director of the Claims Office, in their discretion, determines that an undue hardship or change in circumstances for the claimant warrants an extension of a deadline associated with the appeals process.

**Hearing:** A proceeding convened at the discretion of the Appeals Administrator to receive informal sworn testimony from witnesses or experts, with the transcript entered into the Administrative Record.

**Letter of Determination:** A written decision to the claimant which includes a summary of the compensation amounts signed by an Authorized Official.

**Loss Line Item:** A type of loss that the Claims Office compensates. LLIs are more specific than loss categories.

**Notice of Appeal:** A request that the Claims Office review disputed elements of an Authorized Official's decision on a claim.

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

**Release and Certification:** A document that all claimants who receive 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).

**Receipt Letter:** A letter sent by the Claims Office to a claimant acknowledging receipt of the Notice of Appeal and indicating if the appeal is premature, untimely, or accepted.

**Subject-Matter Expert:** FEMA personnel with specialized skills, knowledge, experience, or capability in the relevant field such as reforestation, forestry, accounting, or risk reduction subjects.

**Supplemental Filings:** Any additional documentation submitted by claimants to supplement the Administrative Record in support of their appeal, whether with the Notice of Appeal or up to 60 days after transmission of the Notice of Appeal. The Director of the Claims Office may extend this timeframe on their own or at the request of a claimant if good cause is shown. Any relevant documentation may be submitted, regardless of whether it was previously submitted to the Claims Office for consideration.

# Appendix C: Notice of Appeal Form

## NOA Option 1: Form

The form is accessible online at: [Notice of Appeal \(NOA\)](#).

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DEPARTMENT OF HOMELAND SECURITY  
Federal Emergency Management Agency  
Hermit's Peak/Calf Canyon Claims Office

**NOTICE OF APPEAL REQUEST FORM**

If you received a final Letter of Determination (LOD) from the Hermit's Peak/Calf Canyon Claims Office and disagree with the determination, you may appeal any portion of the compensation determination. You may not appeal payments for which you have already signed a Release & Certification form.

Your request must be postmarked or emailed within 120-days after the date that appears on the final LOD.

You may submit your notice of appeal by email to [FEMA-Hermits-Peak-Appeals@FEMA.DHS.gov](mailto:FEMA-Hermits-Peak-Appeals@FEMA.DHS.gov), in person at one of our three claims office locations, or by mail to: Appeals Docket, Hermit's Peak/Calf Canyon, P.O. Box 1329, Santa Fe, NM 87504.

This form is to help you initiate an appeal. However, instead of using this form, you may submit a written notice of appeal.

**CLAIMANT INFORMATION**

*(Note: If there are Multiple Owners associated with this appeal, then you may notate the other owners name and consent on the Additional Information section found on page 4)*

Primary Claimant Name:	Claim Number:
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**EXPLANATION OF APPEAL**

*(Note: Specify the Amounts in dispute by Loss Line Item (LLI). If there are more than two-line items associated with this appeal, then you may notate the LLI details on the Additional Loss Line Item section found on page 3)*

Loss Line Item Number (Number assigned by the Claims Office & referenced in the Final LOD):	Loss Line Item Details (Description referenced in the LOD):
---	---

Requested Amount (Amount you are requesting to be compensated for the LLI):	Approved Offer (Amount approved in the LOD for the LOD):
---	--

Statement (Explain why the Approved Offer is incorrect. If additional space is needed, feel free to use on another sheet of paper. Include your name and claim number on all documents):

Loss Line Item Number (Number assigned by the Claims Office & referenced in the Final LOD):	Loss Line Item Details (Description referenced in the LOD):
---	---

Requested Amount (Amount you are requesting to be compensated for the LLI):	Approved Offer (Amount approved in the LOD for the LOD):
---	--

Statement (Explain why the Approved Offer is incorrect. If additional space is needed, feel free to use on another sheet of paper. Include your name and claim number on all documents):

AUTHORIZATION OF REPRESENTATION		
Complete this section only if you will be represented by a third-party representative.		
To comply with C.F.R. Section 5.21 and allow access to records developed as part of your claim, any third-party representative (including but not limited to attorneys, public adjusters, and family members), must provide the following:		
Full Name of Primary Claimant: <input style="width: 100%;" type="text"/>		
Current Address of Primary Claimant: <input style="width: 100%;" type="text"/>		
Place of Birth of Primary Claimant: <input style="width: 45%;" type="text"/>	Country of Citizenship or Residence of Primary Claimant: <input style="width: 55%;" type="text"/>	
<b>I, the undersigned Primary Claimant, authorize disclosure of records pertaining to my Hermit's Peak/Calf Canyon Fire Assistance Claim to:</b>		
<input style="width: 30%;" type="text"/>	<input style="width: 40%;" type="text"/>	<input style="width: 30%;" type="text"/>
(Name of Representative)	(Primary Claimant)	(Date)
THIRD-PARTY REPRESENTATION CONTACT INFORMATION		
Title/Company: <input style="width: 100%;" type="text"/>	Address: <input style="width: 100%;" type="text"/>	
Name: <input style="width: 100%;" type="text"/>		
Phone Number: <input style="width: 30%;" type="text"/>	Fax Number: <input style="width: 30%;" type="text"/>	Email Address: <input style="width: 40%;" type="text"/>
You will receive an acknowledgment of receipt from the Appeals Docket. If you do not receive an acknowledgment, please contact the Appeals Inbox at <a href="mailto:FEMA-Hermits-Peak-Appeals@fema.dhs.gov">FEMA-Hermits-Peak-Appeals@fema.dhs.gov</a> .		
APPEAL EXPENSES		
Your appeal expenses are not eligible for reimbursement under the Hermit's Peak regulations.		
APPEAL WITHDRAW		
You may submit a written request to withdraw your appeal at any time and accept the compensation offered in your Final LOD.		



<b>ADDITIONAL LOSS LINE ITEMS</b> <i>(If Applicable)</i>	
Loss Line Item Number (Number assigned by the Claims Office & referenced in the Final LOD):	Loss Line Item Details (Description referenced in the LOD):
Requested Amount (Amount you are requesting to be compensated for the LLI):	Approved Offer (Amount approved in the LOD for the LOD):
Statement (Explain why the Approved Offer is incorrect. If additional space is needed, feel free to use on another sheet of paper. Include your name and claim number on all documents):	
Loss Line Item Number (Number assigned by the Claims Office & referenced in the Final LOD):	Loss Line Item Details (Description referenced in the LOD):
Requested Amount (Amount you are requesting to be compensated for the LLI):	Approved Offer (Amount approved in the LOD for the LOD):
Statement (Explain why the Approved Offer is incorrect. If additional space is needed, feel free to use on another sheet of paper. Include your name and claim number on all documents):	
Loss Line Item Number (Number assigned by the Claims Office & referenced in the Final LOD):	Loss Line Item Details (Description referenced in the LOD):
Requested Amount (Amount you are requesting to be compensated for the LLI):	Approved Offer (Amount approved in the LOD for the LOD):
Statement (Explain why the Approved Offer is incorrect. If additional space is needed, feel free to use on another sheet of paper. Include your name and claim number on all documents):	

**ADDITIONAL INFORMATION**

Please provide any additional information:



**NEXT STEPS AFTER FILING THE NOTICE OF APPEAL**

- The Claims Office will send a letter acknowledging receipt of your Notice of Appeal.
- You will have 60-days from the postmarked date on your Notice of Appeal to provide additional documents.
- If you are unable to provide additional documentation within the allotted timeframe, you can submit a written request for an extension prior to the 60-day deadline explaining why you will be unable to meet the timeframe.
- If any supplemental information cannot be provided in writing, please explain why. You may also include documents with your Notice of Appeal.
- The Claims Office may request additional documents, schedule a conference to understand issues, or convene an informal hearing to receive views of witnesses or experts.

## NOA Option 2: Letter

Claimants are not required to use the NOA form to file an appeal. Claimants may instead submit a letter with all necessary information. Below is a sample letter.

October 24, 2024

John and Jane Doe  
1234 Main Street  
Glorieta, NM 87535

Dear Appeals Administrator:

We are a married couple residing in Glorieta, NM. Our claim number is 00012345, and we are appealing the Claims Office's determination of the following loss line items, as explained below:

1. Home Structure 1700 sq. ft., one story
  - a. Claims Office Determination - \$0
  - b. Requested Amount - \$60,095.00
  - c. Justification – We are including the requested photos of our main home to provide evidence of smoke damage. Each photo is labeled with the date taken (August 22, 2022) and the specific location within the house.
  
2. Home Contents 1700 sq. ft., one story
  - a. Claims Office Determination - \$0
  - b. Requested Amount - \$4,607.00
  - c. Justification – We are included the requested photos of our main home to provide evidence of smoke damage to household contents. Each photo is labeled with the specific location within the house and the date it was taken (August 22, 2022).

Sincerely,

*John and Jane Doe*

# Appendix D: Overview of the Three-Step Appeals Process

The appeals process involves coordinated efforts from both the claimant and Claims Office Appeals staff. While the claimant focuses on submitting their appeal and providing any necessary documentation, the Claims Office Appeals staff are responsible for conducting a thorough, independent review, coordinating internal approvals, and ensuring that the final decision is communicated clearly and promptly to the claimant. See the three key steps below:

## STEP 1

Request an Appeal

Submit a written Notice of Appeal (NOA) within 120 days from the date listed on your final Letter of Determination. Be sure to include the reason for appeal, describing where you believe there are inaccuracies in the Claims Office's determination.

**Send your Notice of Appeal by email or mail, or drop it off in person.**

**IN PERSON:** Through your Navigator.

**BY EMAIL:** [fema-hermits-peak-appeals@fema.dhs.gov](mailto:fema-hermits-peak-appeals@fema.dhs.gov)

**BY MAIL:** Appeals Docket  
FEMA Hermit's Peak/Calf Canyon Claims Office  
P.O. Box 1329  
Santa Fe, NM 87504

## STEP 2

Appeal Is Reviewed

The Claims Office will issue an acknowledgement letter once they have received your Notice of Appeal.

Claimants can provide supporting documents within 60 days of filing an appeal. Claims Office staff will also reach out if additional information is necessary.

## STEP 3

Receive a Decision

The Claims Office will provide a decision on your appeal after receiving your Notice of Appeal and any supplementary information. If you agree with the decision, payment will be made after you have signed the Release and Certification Form.

Individuals who do not agree with the appeal decision can file for arbitration or judicial review within 60 days of the date on the appeal decision.