

zone. The National Pollution Funds Center (NPFC) processes claims against the Oil Spill Liability Trust Fund for oil removal costs and certain damages that result from such discharges or threats under authority of the Oil Pollution Act of 1990 (OPA) (33 U.S.C. 2701 *et seq.*). The circumstances of a marine casualty will often bear on the entitlement to a claimant to payment of its claim, particularly for vessel owners or operators who may claim a complete defense to their own liability for such costs or damages, or entitlement to limit their liability under OPA.

In the past, the NPFC has not considered such reports of marine casualty investigations on the grounds that a broad interpretation of 46 U.S.C. 6308 might proscribe their use in the NPFC's claims processes. However, this resulted, in some instances, in the NPFC having to duplicate the investigative process in order to make findings of fact that were included in a Marine Casualty Investigation Report (MCIR).

As stated in the notice of interpretation, the NPFC may consider and rely on any part of a report of a MCIR in determining whether to pay or deny a claim. While such reports may be of use to NPFC in this regard, and may also be submitted by claimants to support their claims, the NPFC is not bound by such reports of investigation. The NPFC may require additional information from claimants in order to support their claims and may, considering the record as a whole, find additional facts or different facts from those included in such reports of investigation.

Discussion of Comments

Two commentors submitted comments to the Coast Guard during the comment period (71 FR 60553). Both commentors stated that the MCIRs are essentially field reports compiled under difficult circumstances by personnel of varying degrees of experience and knowledge. Commentors cautioned that the use of MCIRs should be undertaken with appropriate awareness of their possible shortcomings. The Coast Guard has stated that the NPFC is not bound by reports of investigation. Accordingly, the Director of the NPFC can reach not only different facts but also different opinions or conclusions than the opinions and conclusions in the MCIR.

A second comment noted that consideration of MCIRs by the NPFC will ultimately lead to their inclusion in the administrative record. The commentor reasoned that if a claim were appealed in a federal district court under the Administrative Procedure Act (APA), those documents would be

introduced into civil proceedings as part of the administrative record in violation of 46 U.S.C. 6308.

The scope of APA judicial review is in 5 U.S.C. 706 and expressly provides that the court shall review the whole record. While the exclusion under 46 U.S.C. 6308 refers in general to civil proceedings, Congress did not intend to prevent proper judicial review under the APA and therefore 46 U.S.C. 6308 does not trump the APA record requirement.

For the reasons discussed above, these comments do not effect our interpretation as published in the **Federal Register** on October 13, 2006 (71 FR 60553).

Dated: April 3, 2007.

William D. Baumgartner,

U.S. Coast Guard Judge Advocate General.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed continuing information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the certification of flood proof residential basements in Special Flood Hazard Areas.

Title: Residential Basement Floodproofing Certificate.

OMB Number: 1660-0033.

Abstract: FEMA Form 81-78 is only used in communities that have been granted an exception by FEMA to allow the construction of flood proof residential basements in Special Flood Hazard Areas, (SFHAs). Homeowners must have a registered professional engineer or architect complete FEMA Form 81-78 for development or inspection of a properly designed and constructed basement and certify that the basement design and methods of constructions are in accordance with

floodplain management ordinances. In any case homeowners are responsible for the fees involved with these services. Homeowners also provide FEMA Form 81-8 to the insurance agent to receive discounted flood insurance under the National Flood Insurance Program (NFIP).

Affected Public: Business or other for-profit.

Number of Respondents: 150.

Estimated Time per Respondent: 3.25 hours.

Estimated Total Annual Burden Hours: 487.5.

Frequency of Response: One-time.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, Attention: Nathan Lesser, Desk Officer, Department of Homeland Security/FEMA, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974. Comments must be submitted on or before May 9, 2007.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection should be made to Chief, Records Management, FEMA, 500 C Street, SW., Room 609, Washington, DC 20472, facsimile number (202) 646-3347, or e-mail address FEMA-Information-Collections@dhs.gov.

Dated: March 28, 2007.

John A. Sharets-Sullivan,

Chief, Records Management and Privacy Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Department of Homeland Security.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA-3274-EM]

Indiana; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Indiana (FEMA-3274-EM), dated March 12, 2007, and related determinations.

EFFECTIVE DATE: March 30, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal