



FEMA

U.S. Department of Homeland Security
Washington, D.C. 20472

November 4, 2022

MEMORANDUM FOR: The Honorable Dominic Mancini
Deputy Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

THROUGH: Eric Hysen
Chief Information Officer
Department of Homeland Security

FROM: Alexandra Travis
Chief Administrative Officer
Mission Support
Federal Emergency Management Agency

SUBJECT: Emergency Approval Request of New Information Collection to the
Office of Management and Budget (OMB) Collection 1660-NW162
Notice of Loss and Proof of Loss; FEMA Form FF-104-FY-22-230
Notice of Loss and FEMA Form FF-104-FY-22-231 Proof of Loss

The Federal Emergency Management Agency (FEMA) seeks to utilize the emergency process for approval for a new information collection to the Office of Management and Budget (OMB) Collection 1660-NW162 Notice of Loss in accordance with the Hermit's Peak/Calf Canyon Fire Assistance Act (Pub. L. No. 177-180, 136 Stat. 2114 (2022)) ("Act").

This information is necessary to support the Act implemented by the Hermit's Peak/Calf Canyon Fire Assistance regulation (44 CFR part 296) which was added by FEMA's November 10, 2022 *Hermit's Peak/Calf Canyon Fire Assistance Interim Final Rule* (RIN 1660-ABXX). The purpose of this authority is to ensure the expeditious consideration and settlement of claims to compensate victims of the Hermit's Peak/Calf Canyon Fires.

The Hermit's Peak Fire began on April 6, 2022, after a prescribed burn exceeded the containment capabilities of the U.S. Forest Service and was declared a wildfire. On April 19, the Calf Canyon Fire began burning on Federal land and was later identified as the result of a pile burn in January 2022 that remained dormant under the surface before reemerging. The Hermit's Peak and Calf Canyon Fires merged on April 27, 2022. By May 2, 2022, the fire had grown, causing evacuations in multiple villages and communities. On May 4, 2022, President Biden issued a major disaster declaration for the counties of Colfax, Mora, and San Miguel, New Mexico. The U.S. Forest Service has assumed responsibility for the Hermit's Peak/Calf Canyon Fire, which was not 100 percent

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contained until August 21, 2022. On September 30, 2022, Congress passed the Act authorizing FEMA to establish a claims process for victims of the Hermit's Peak/Calf Canyon Fire.

Congress tasked FEMA with providing expeditious consideration and settlement of claims for injuries as a result of the Hermit's Peak/Calf Canyon Fire. In doing so, Congress set strict deadlines around the claims process. First, FEMA is required to publish interim regulations establishing the process by November 14, 2022. Once the process is established in regulation, Claimants will have two years from the date the regulation is published to submit their Notice of Loss to FEMA. The Notice of Loss provides confirmation that the Claimant has elected to use the process under the Act to seek compensation for injuries resulting from the Hermit's Peak/Calf Canyon Fires and formally begins the claims process. Without immediate access to the Notice of Loss, Claimants will not have the full period of time available under the statute to submit their claim.

Following the normal clearance procedures for approval, this information collection will delay FEMA's ability to expeditiously consider and settle claims arising from injuries as a result of the Hermit's Peak/Calf Canyon Fire. The victims of this Fire deserve compensation for their injuries and Congress has demanded immediate action to compensate them.

It is vital that FEMA implement the information collection as soon as possible to support immediate needs in response to the Hermit's Peak/Calf Canyon Fire. In accordance with the Paperwork Reduction Act (PRA) and the Office of Management and Budget's (OMB) implementing regulations at 5 C.F.R. § 1320.13: (1) this information is necessary to the mission of the agency, (2) this information is necessary prior to the expiration of time periods established under PRA, (3) public harm is reasonably likely to result if normal clearance procedures are followed, and (4) an unanticipated event has occurred.

1. Information is Essential to the Mission of the Agency

This information is necessary to compensate victims of the Hermit's Peak/Calf Canyon Fire for injuries resulting from the Fire. The purpose of this authority is to ensure the expeditious consideration and settlement of claims for those injuries pursuant to the Act. The Hermit's Peak/Calf Canyon Fire is the largest wildfires in New Mexico history, destroying at least 160 homes and over 900 structures and burning over 340,000 acres of forest including just under 200,000 total acres of privately-owned land. Despite containment, the impact of the Fire continues to be felt in the impacted areas, causing flooding and setting off a drinking water crisis.

Because the U.S. Forest Service assumed responsibility for the fires and Congress authorized \$2.5 billion in initial funding to support the expeditious consideration and settlement of claims for those injured by the Fires, FEMA requests an emergency approval to collect the necessary information from claimants to begin the claims process.

Recognizing the need to move forward quickly, Congress authorized FEMA to publish an interim final rule by November 14, 2022 for the processing and payment of claims under the Act. To ensure FEMA is able to begin processing claims upon publication of the interim final rule, the agency must have a mechanism for claimants to provide information on their injuries. The Notice of Loss form serves to structure the information concerning the injuries sustained by claimants and formally begins the claims process. Each item of information requested is needed to establish the nature and scope of the claimant's injuries and assign a Claims Reviewer to begin review of the claim, while also ensuring election of the Act's process for compensation. The information requested includes Claimant information (name, contact information including phone number, email address, and

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physical address); type of claim (individual/household, business, government, Indian Tribe, non-profit, other); description of losses in general terms (loss of property, business loss, financial loss); insurance information (company name, whether a claim has been filed with the company); FEMA grants received; other government assistance (Federal, State, local, Tribal); special needs assistance; translation assistance; and an attestation choosing the Act's process as the method of resolving claims against the Federal government.

2. The Information is needed Prior to Expiration of Time Periods Established under PRA
Congress tasked FEMA with providing expeditious consideration and settlement of claims for injuries as a result of the Hermit's Peak/Calf Canyon Fires. In doing so, Congress set strict deadlines around the claims process. First, FEMA is required to publish interim regulations establishing the process by November 14, 2022. Once the process is established in regulation, Claimants will have two years from the date the regulation is published to submit their Notice of Loss to FEMA. Without immediate access to the Notice of Loss, Claimants will not have the full period of time available under the statute to submit their claim. It would thus be impracticable and contrary to the public interest to delay implementing this information collection until after FEMA has completed the PRA process.

3. Public Harm is Reasonably Likely to Result if Normal Clearance Procedures are Followed

Public harm is reasonably likely to result if normal clearance procedures are followed because it may lead to delays in Claimants receiving compensation for injuries resulting from the Fires.

4. An Unanticipated Event has Occurred

The Hermit's Peak Fire began on April 6, 2022 after a prescribed burn exceeded the containment capabilities of the U.S. Forest Service and was declared a wildfire. On April 19, the Calf Canyon Fire began burning on Federal land and was later identified as the result of a pile burn in January 2022 that remained dormant under the surface before reemerging. The Hermit's Peak and Calf Canyon Fires merged on April 27, 2022. By May 2, 2022, the fire had grown, causing evacuations in multiple villages and communities. President Biden issued a major disaster declaration for the counties of Colfax, Mora, and San Miguel, New Mexico on May 4, 2022. The U.S. Forest Service has assumed responsibility for the Hermit's Peak/Calf Canyon Fire, which was not 100 percent contained until August 21, 2022. On September 30, 2022, Congress passed the Act authorizing FEMA to establish a claims process for victims of the Hermit's Peak/Calf Canyon Fire.

FEMA is requesting emergency approval of this information collection request so that it can accept claims immediately upon publication of the interim final rule. Delay in approval of this information collections will disrupt FEMA's ability to comply with other provisions of the law and its overall mission.

5. Conclusion

Following the normal clearance procedures for approval this information collection will delay FEMA's ability to expeditiously consider and settle claims arising from injuries as a result of the Hermit's Peak/Calf Canyon Fire. The victims of these fires deserve compensation for their injuries and Congress has demanded immediate action to compensate them. As discussed, FEMA certifies that the requirements of 5 CFR 1320.13(a) are met and it is vital this new collection be implemented immediately, because: (1) this information is necessary to the mission of the agency,

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(2) this information is necessary prior to the expiration of time periods established under PRA, (3) public harm is reasonably likely to result if normal clearance procedures are followed, and (3) an unanticipated event has occurred.

Thank you for your consideration.