

August 3, 2006

Supporting Statement for Paperwork Reduction Act Submissions

OMB Control Number: 1660-0095

Title: National Flood Insurance Program Appeals Process

Form Number(s): None

A. Justification

1. Explain the circumstances that make the collection of information necessary (give details as to why this information is being collected). Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information. Provide a detailed description of the nature and source of the information to be collected.

Section 205 of The Bunning-Bereuter-Blumenauer Flood Insurance Reform Act (FIRA) of 2004, Public Law 108-264, 42 U.S.C. 4102A, requires the Federal Emergency Management Agency (FEMA) to establish by regulation an additional process for the appeal of decisions of flood insurance claims issued through the National Flood Insurance Program (NFIP). Consequently, FEMA issued an interim final rule codifying into regulation what was previously an existing informal process to handle appeals regarding decisions related to coverage or claims under the NFIP.

Therefore, this appeal process establishes a formal mechanism to allow policyholders to appeal the decisions of any insurance agent, adjuster, insurance company, or any FEMA employee or contractor in cases of unsatisfactory decisions on claims, proof of loss, and loss estimates. Under this process, FEMA will acknowledge receipt of a policyholder's appeal in writing and will advise such policyholder if additional information is required in order to fully consider the appeal. FEMA will review the documentation submitted by the policyholder, will conduct any necessary additional investigation, and will advise, both the policyholder and the appropriate flood insurance carrier, of its decision regarding the appeal.

The process requires policyholders to submit a written appeal to the Federal Emergency Management Agency (Mitigation Division/Risk Insurance Branch), in the form of a signed letter, explaining the nature of their claim appeal, names and titles of persons contacted, dates of contact, contact information, and details of the contact relevant to their claim appeal. The policyholders are also required to submit documentation supporting their appeal and basis for the appeal, a list of items in dispute, with the price to repair or replace the items, proof of loss which is already required in the policy provisions, policy number, name of policyholder, property address, mailing address if property address is different,

phone numbers and contact information for the policyholder and supporting photographs if appropriate.

The appeals process applies to all NFIP policyholders without regard to whether they bought their flood insurance policy directly from FEMA or through an independent insurance company (private sector) via the Write Your Own (WYO) Program.

Note: After careful consideration on whether to seek OMB approval as a “Revision to a Currently Approved Collection” (i.e. by integrating the appeal process to NFIP Claims Process (Forms), OMB Control Number 1660-0005), the decision was made to seek approval under the category of an “Existing Collection in Use Without an OMB Control Number” for the following reasons:

- a) Correct a possible PRA violation given that FEMA has traditionally used an informal process to handle appeals that was not included in previous clearance documentation submitted to OMB under 1660-0005.
- b) Clarify the fact that no new information is being collected as the appeals process relies mostly on existing information, although it carries an increase in respondents’ burden hours as a result of having to compile information and write a formal letter requesting the appeal. Furthermore, the impact of Katrina, certainly an extraordinary event, has more than tripled the number of claims, and consequently, the number of appeals during FY 2006, but absent of another disaster of such magnitude, both are expected to decrease to typical levels in future years.
- c) The appeals process as an information collection is better served independently under its own OMB Control Number given that:
 - the appeals process applies to ALL policyholders with no distinction as to whether their flood insurance policy was purchased directly from FEMA or through an insurance company (WYO)
 - the NFIP Claims Process (FEMA Forms 81-40; 81-41/81/41A; 81-42/81-42A; 81-43; 81-44; 81-57; 81-58; 81-59; 81-63; 81-96; 81-98; 81-109; and 81-110) approved under OMB Control Number 1660-0005, only covers information collected for claims from policyholders who bought policies directly from FEMA. NFIP policyholders’ claims made directly to WYO companies are not included in this information collection since FEMA does not collect this information as WYO companies are free to use their own claim forms. This explains the difference between the typical number of annual NFIP claims (i.e. 68,000) stated in the interim final rule and the number of annual responses (i.e. 27,970) submitted to and approved by OMB under 1660-0005. A separate OMB Control Number assigned exclusively to the appeals process will more accurately reflect respondents burden hours and costs.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Provide a detailed description of: a) how the information will be shared, if applicable, and for what programmatic purpose.

This information will be reviewed by the Director of Claims and claims examiners and will be used to determine if the policyholder/claimant is entitled to additional remedies for the loss. Currently when policyholders are not satisfied with their claims settlement, they write to their Congressperson, company or directly to FEMA. The claims section of the Risk Insurance Branch responds to these complaints and determines if the policyholder's claim was properly adjusted and settled. The policy, proof of loss, loss estimates, photographs, and any supporting documentation the policyholder has sent with the letter, is reviewed to determine if the policyholder's claim was properly adjusted and settled. If the claim was not settled properly, a determination is made as to what additional monies or remedies the policyholder is entitled to and should receive.

The policyholders policy number, property address, mailing address and claims has already been recorded in the NFIP's database prior to the policyholder sending this information with their written appeal to FEMA. The bureau net was established to keep files and statistics on NFIP policyholders when the NFIP program was instituted.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

This is a paper-based information collection and electronic response is not permitted. The appeals request letter must be signed by the requestor and accompanied by relevant supporting documentation. Therefore, electronic responses are not permitted at this time.

However, information featuring the steps in appealing claims, together with the Flood Insurance Claims Handbook (copy attached) which also explains the appeals process is posted in the NFIP website located at:

http://www.floodsmart.gov/floodsmart/static/Appealing_Your_Flood_Insurance_Claim.pdf

www.fema.gov/pdf/nfip/f687_claimshdbk.pdf

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

This information collection constitutes the only mechanism available to policyholders to request an appeal; therefore, there is no duplication. The information that can be obtained from the insurance company, if necessary, does not include the appeal letter from the insured.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize.

No burden is placed on small businesses or entities.

6. Describe the consequence to Federal/FEMA program or policy activities if the collection of information is not conducted, or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Failure to collect this information will result in non-compliance with Pub. L. 108-264, 42 U.S.C. 4102A, which requires FEMA to establish by regulation a process for policyholders to appeal decisions they consider unsatisfactory. Without this initial letter of appeal, FEMA will not be able to formally initiate, evaluate, and process the appeal, but rather will continue to rely on the current informal process, which the FIRA of 2004 seeks to formalize.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

(a) Requiring respondents to report information to the agency more often than quarterly.

There are no requirements for respondents to report information to the agency more often than quarterly.

(b) Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

There are no requirements for respondents to prepare a written response to this collection of information in fewer than 30 days.

(c) Requiring respondents to submit more than an original and two copies of any document.

There are no requirements for respondents to submit more than an original and two copies of any document.

(d) Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years.

There are no requirements for respondents to retain records for more than three years.

(e) In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.

There is not a statistical survey involved with this collection.

(f) Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.

This collection is intended for internal program use only and not for dissemination to the public.

(g) That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.

There is no pledge of confidentiality that is not supported by authority established in statute or regulation involved with this collection that would hamper the ability of the NFIP to share this information with other agencies and/or stakeholders for compatible confidential use. FEMA conducted a Privacy Impact Assessment (PIA) and published a System of Records Notice to accommodate the appeals process in the existing System of Records (See copies included in this PRA package).

(h) Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There is no requirement for respondents to submit proprietary trade secret, or other confidential information for this collection.

8. Federal Register Notice:

a. Provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

The Interim Final Rule RIN 1660-AA41, was published in the Federal Register on May 26, 2006, volume 71, number 102, pages 30294-30298. A System of Records Notice (SORN) was published on June 2, 2006, volume 71, number 106, pages 32115-32117. A 30-day emergency approved federal register notice was published in the federal register on May 19, 2006, volume 71, number 97, page 29166. The 30-day emergency federal

register notice served as the 60-day comment period. There were not comments received for this information collection.

b. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A contractor has been retained to assist the NFIP with the appeals process. It has provided considerable consulting services in developing and implementing the process, and will play a critical role in reviewing appeal requests and reaching resolution.

c. Describe consultations with representatives of those from whom information is to be obtained or those who must compile records. Consultation should occur at least once every three years, even if the collection of information activities is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

There was no consultation with policyholders given that the formal establishment of an appeal process was required by Congress in Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act (FIRA) of 2004.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There is no payment or gift to respondents in this collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. Provide details on:

a. Whether respondents are informed on the mandatory or voluntary nature of providing the information,

The appeal process is voluntarily initiated by the policyholder. However, once the policyholder files an appeal the rule states that certain and specific information is required for the appeal to proceed. Failure to provide the requested information or to request an extension by the due date will result in a dismissal of the appeal.

b. Opportunities to decline participation or to consent to particular uses in the information, and

The appeals process is voluntary and requestors can stop the appeal process at any time. The policyholders are granting consent to a review of their National Flood Insurance Program (NFIP) policy claim file when they initiate the appeal via a letter requesting a review of their claim along with the required information needed to review the claim.

c. How can respondents grant such consent?

The consent is granted when the policyholder sends in their written appeal requesting review of their NFIP policy claim decision. .

d. State any administrative and/or technological control to secure the information.

Exclusively authorized personnel from FEMA or its contractors on a “need-to-know basis” can access the National Flood Insurance Program (NFIP) database. The information on policyholders, used to review claims, is contained in a secured database and access is password-protected. The appeal letter as well as the required documentation is maintained in a scanned document file. The hard copies are stored in a work area that is in a secure area when it is not staffed. The doors to the workspace are kept closed.

e. Will data findings be analyzed and reported in a way that protects respondents’ anonymity?

The information collected will be used exclusively to review a disputed claim on a case-by-case basis per applicant’s voluntary request for an appeal. No further analysis other than general statistics (i.e. percentage of successful appeals) for internal program management will be conducted and no publication or other release of the information is planned.

f. For electronic information collections (web-based): In addition to the above information, provide a detailed description of the use of any agency-authorized tracking of respondents (due to a compelling need), and whether there is an intent to identify individual respondents in conjunction with other data elements (i.e., gender, race, age, geography, and other descriptors).

There is no electronic or web-based capability available for this information collection.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature requested from respondents.

12. Provide estimates of the hour burden of the collection of information. The statement should:

a. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desired. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

TABLE 1. ANNUAL BURDEN HOURS

Project/Activity (Survey, Form(s), Focus Group, etc.)	No. of Respondents	Frequency of Responses	Burden Hours Per Respondent ⁽¹⁾	Annual Responses	Total Annual Burden Hours
	(A)	(B)	(C)	(AxB)	(AxBxC)
Appeal Letter	2,000	1	2.00	2,000	4,000
TOTAL	2,000	1	2.00	2,000	4,000

⁽¹⁾ Estimated time each respondent will spend compiling the required supporting documentation and drafting the appeal request letter.

The total annual burden hours estimated for this information collection factors in the overwhelming impact of three major hurricanes in FY 2006. While the typical number of annual NFIP claims totals approximately 68,000, FY 2004 experienced an increase in filed claims to 75,022, resulting in 360 appeals.

The total number of claims received from Hurricanes Katrina, Rita, and Wilma is approximately 240,000, approximately 3.3 times greater than an average year and more than triple the total number of claims filed in 2004. Based on this scenario, the estimated number of appeals for 2006 is expected to total 1,200 (the same proportion of 3.3 times greater). However, given the magnitude and severity of Hurricane Katrina, the publication of this interim final rule, and the distribution of the NFIP Insurance Claims and Appeal Handbook, FEMA estimates that the number of appeals filed in 2006 could be as high as 2,000.

Conservatively, it is anticipated that after 2006, assuming no catastrophic flood-related disaster like Katrina, FEMA will receive somewhere between the typical 360 and the highest 1,200 appeals averaging approximately 780 appeals per year.

b. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

c. Provide estimates of annualized cost to respondents for the hour burdens for collections of information identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead this cost should be included in Item 14.

Table 2. ANNUAL COST TO RESPONDENTS

Program	Burden Hrs	Median Hr. Rate ⁽¹⁾ (\$)	Average Cost per Hr. per Respondent (\$)	Annualized Cost All Respondents (\$)
Appeal Letter	4,000	\$13.83	\$28.00	\$55,720.00
Total	4,000	\$13.83	\$28.00	\$55,720.00

⁽¹⁾Based on the 2004 National Median Hourly Rate for All Occupations per Bureau of Labor Statistics.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. Do not include the cost of any hour burden shown in Items 12 and 14. The cost estimates should be split into two components:

There is no start-up, capital or maintenance/operational costs to respondents involved in this collection. However, there is a nominal cost of \$3.00 per policyholder (\$6,000 for all respondents combined) for copying and mailing the documentation in addition to the cost associated with compiling the documentation and drafting the appeals request letter stated under Q12c above.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing and support staff), and any other expense that would have been incurred without this collection of information. You may also aggregate cost estimates for Items 12, 13, and 14 in a single table.

Table 3. ANNUALIZED COST TO THE FEDERAL GOVERNMENT

ITEM	COST (\$)
Contract Costs	235,000.00
Staff Salaries (3 GS 13, 1 GS 14 and 1 GS 15)	119,907.00
Storage and Maintenance	3,000.00
Postage	3,400.00
Total	\$361,307.00

The estimated annual cost to the Federal government, performance by the contractor, to process, analyze and maintain this information is approximately \$235,000 (2000 x 4.70 hours per file = 9400 x \$25.00 per hour= \$235,000). This amount includes the review and validation of documentation of claims appeals. The approximate cost is determined as follows:

- Total estimated number of claim appeals processed per year =2000
- Number of hours to review on file = 4.70
- Claims Specialist Rate per hour = \$25.00

The Federal government will also spend approximately \$3000 a year to maintain and store the claims appeals files. In addition approximately four FEMA employees will review 10 files a week, each spending one hour on a file for a total of 40 hours. The Chief will spend ½ hour reviewing each file for a review of 40 files a week. The approximate annual cost of \$119,906.80 is determined as follows:

- 1 Claims Section Chief GS 15 level may spend approximately 20 hours a Week (1/2 hour for each 40 files). The rate per hour is \$64.97. The total annual cost for the GS 15 is \$33,789.60.
- 1 Senior Claims Examiner GS 14 level may spend approximately 10 hours a Week (1 hour per file). The rate per hour is \$48.15. The total annual cost for the GS 14 is \$25,038.00.
- 3 Claims Examiners GS 13 level may spend approximately 30 hours a week (1 hour per file, 10 files each). The rate per hour is \$40.75 and \$35.96, respectively. The total annual cost for the GS13's is \$61,079.20.

The Federal government will spend an estimated \$740.00 per year for postage to mail the appeal determination to the policyholder (2000X.37 = \$740.00).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I. Changes in hour burden, i.e., program changes or adjustments made to annual reporting and recordkeeping hour and cost burden. A program change is the result of deliberate Federal government action. All new collections and any subsequent revisions of existing collections (e.g., the addition or deletion of questions) are recorded as program changes. An adjustment is a change that is not the result of a deliberate Federal government action. These changes that result from new estimates or actions not controllable by the Federal government are recorded as adjustments.

This collection is being processed as an existing collection in use without an OMB number, therefore, for practical inventory purposes it represents a new collection adding 2,000 annual responses and **4,000 burden hours** categorized as a program change due to statutory action.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There are no plans for tabulation or publication involved with this collection since it is intended for internal program use only.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain reasons that display would be inappropriate.

Although there are no forms or structured instruments used in this information collection, policyholders will be advised of OMB's approval of this collection. A valid OMB number and expiration date will be displayed in the FloodSmart website and in all other material referencing the appeals process.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

No exceptions are being sought by this collection. .

B. Collections of Information Employing Statistical Methods.

When Item 17 on the Form OMB 83-I is checked "Yes", the following documentation should be included in the Supporting Statement to the extent it applies to the methods proposed:

There are no statistical methods involved with this collection.