

October 29, 2007

Supporting Statement for Paperwork Reduction Act Submissions

OMB Control Number: 1660 – New36

Title: Severe Repetitive Loss (SRL) Appeals

Form Number(s): None

General Instructions

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 or the OMB Form 83-I is checked “Yes”, Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

A. Justification

1. Explain the circumstances that make the collection of information necessary. 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.

The Department of Homeland Security (DHS), Under Secretary for Management, Office of the Chief Information Officer is requesting a new information collection for the Severe Repetitive Loss (SRL) Appeals. This authorization of the collection is necessary for the Federal Emergency Management Agency (FEMA) to administer the SRL program, which is essential to FEMA mission to lead America to prepare for, prevent, respond to, and recover from disasters.

The SRL grant program was authorized in 2004 under the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (P.L. 108-264), 42 U.S.C. 4030. The purpose of the SRL program is to award grants to States and local communities for actions that reduce or eliminate the long-term risk of flood damage to residential properties insured under the National Flood Insurance Program (NFIP), that meet the definition of severe repetitive loss

property. The mitigation of losses sustained by these properties, through projects such as buyouts, elevation, relocation, or flood proofing, will produce savings for policyholders under the NFIP and for Federal taxpayers through reduced flood insurance losses and reduced Federal disaster assistance. The program relies on a strategy of making mitigation offers to these severe repetitive loss property owners and shifting more of the burden of recovery costs to those property owners who decline the offer of mitigation assistance, and choose to remain vulnerable to repetitive flood damage, by incrementally increasing their rates for flood insurance. Those whose rates are increased will be eligible to appeal this increase via an independent third party from a list based on professional qualifications impartially developed by FEMA Alternative Dispute Resolution (ADR) Director.

44 CFR Part 79.7(d) Flood Mitigation Grants and Hazard Mitigation Planning Interim Final rule implement the SRL program appeals process. This rule outlines the process by which, any owner of a severe repetitive loss property, may appeal FEMA decision that would increase the chargeable insurance premium rate on the property.

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: how the information will be shared, if applicable, and for what programmatic purpose.

This process requires the owner to submit a written appeal, including any supporting documentation for an appeal to FEMA within 90 days of the notice of the insurance increase. Much of the supporting documentation for SRL applications is covered under a separate collection, OMB No. 1660-0072, Mitigation Grant Programs (e-Grants). Although much of the supporting documentation has already been submitted in the original application for SRL grant funds, the property owner may submit any additional documentation that supports their appeal. The regulation provides six (6) bases for appeal, each with its own requirements for information shown in italics:

(a) The offered mitigation activity is an acquisition and the property owner would be unable to purchase a replacement of the primary residence that is of comparable value and that is functionally equivalent. The property owner must document the actions taken to locate such replacement dwelling and demonstrate that no such dwelling is available.

(b) The amount of Federal funds offered for a mitigation activity, when combined with funds from the required non-Federal source, would not cover the actual eligible costs of the mitigation activity. The property owner must submit at least two independent estimates from professional engineers or registered architects to support this claim. For an acquisition, the price offered for purchasing the property is not an accurate estimation of the market value of the property. The property owner must submit two independent appraisals from qualified appraisers demonstrating that the purchase offer is not an accurate estimation of the market value of the property.

(c) The offered mitigation activity would diminish the integrity of a historic district, site, building, or object's significant historic characteristics to the extent where the historic resource would lose its status as listed or eligible for inclusion on the National Register of Historic Places. The property owner must submit appropriate documentation from the State Historic Preservation Officer/Tribal Historic Preservation Officer to support this claim.

(d) For a multifamily property: each of the flood insurance claims payments that served as the basis for its designation as a severe repetitive loss property must have resulted directly from the actions of a third party in violation of Federal, State, or local law, ordinance, or regulation. The property owner(s) must submit appropriate evidence, documentation, or data to support this claim.

(e) The property owner relied upon FEMA Flood Insurance Rate Maps (FIRMs) that were current at the time the property was purchased, and the effective FIRM and associated flood insurance study (FIS) did not indicate that the property was located in an area having special flood hazards. The property owner must produce the dated FIRM and FIS in effect at the time the property was purchased to support this claim.

(f) An alternative mitigation activity would be at least as cost effective as the offered mitigation activity. The property owner must submit documentation of the costs for a technically feasible and eligible alternative mitigation activity based on estimates from qualified appraisers, professional engineers, or registered architects, and information and documentation demonstrating the cost effectiveness using a FEMA approved methodology to support this claim.

FEMA will use this information to conduct an initial review of each appeal. FEMA can reject an appeal if it is made on an illegitimate basis or approve it without further evaluation, or assign it to an independent third party or to FEMA ADR office for review and final determination.

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.

FEMA has not mandated a requirement for property owners to use information technology to submit appeals. Property owners are required to submit a written appeal, including supporting documentation, postmarked or delivered to FEMA within 90 days of the date of the notice of the insurance increase.

Due to the number of consultations and the collection of voluntary participation statements during the application process, FEMA anticipates very few responses to the

appeal process; therefore the creation of an automated system exclusively for this collection is cost-prohibitive. FEMA may accept email submittals, if arrangements between FEMA and the property owner are made in advance.

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.

Property owners who submit appeals may request a copy of the original application submitted during the SRL application process. Property owners may request copies of documents, and may submit the application information as supporting documentation.

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.

The information collection for the SRL appeals will have no impact on small businesses. Respondents are property owners of severe repetitive loss properties, which are defined as residential properties only.

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.

FEMA will be unable to implement the appeals process for the SRL programs, and will be in violation of the requirements under the Flood Insurance Act of 1968, 42 U.S.C. 4102a without this collection of information.

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.

This collection does not require respondents to report information to FEMA 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.

This collection does not require respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.

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

This collection does not require 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.

The appeals process does not require respondents (property owners) to retain records, other than health, medical, government contract, grant-in-aid, or tax 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 are statistical surveys involved with this information collection.

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

There are no statistical data classifications used with this information collection.

(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.

This collection does not require the respondents to submit any pledge of confidentiality not supported by authority in statute or regulation.

(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.

This collection does not require the respondent to submit proprietary trade secrets or other confidential information.

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.

An Interim Final Rule was published for this information collection on October 31, 2007, volume 72, number 210, Page 61720-61750.

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.

In order to gather input from interested parties on the new Severe Repetitive Loss program, Section 102 of “the Act” required FEMA to consult with State and local officials within 90 days of the passage of “the Act”, and to provide an opportunity for oral presentations for developing procedures for the distribution of funds to States and communities to carry out eligible mitigation activities. To meet this requirement, FEMA published a Federal Register notice on September 15, 2004, 69 FR 55642, to initiate consultation with State and local governments; organizations representing emergency management, floodplain management, and insurance professions, and other interested parties. Interested parties initially had until November 30, 2004, to submit written comments in response to the notice and meeting. FEMA extended the deadline for comments until December 7, 2004, and received 23 written comments from States, communities, and associations. In response to the Federal Register notice 19 entities offered comments on the Question: “What role should states and communities have in the Appeals Process for severe repetitive loss property owners who decline mitigation offers under the Pilot Program? What rules and procedures should be contained in the Appeals Process?” A general Synopsis of these comments is as follows:

General comments on Appeals Process	States/Territories	Local Communities	Associations Organization
Advocate information sharing between FEMA and States	1	3	4
Advocate State and/or community involvement in Appeals Process	5	4	1
Advocate that only FEMA be involved in Appeals Process		1	
State Participants still discussing the issue with other State agencies	1		

The following is a sample of comments on the appeals requirements of the Program presented by State and local officials and representative organizations:

“A clarity in the details, especially the Appeals Process and the insurance consequences.”

“States and communities are also sensitive to any possibility of liability which may preclude much participation in the Appeals Process. However, States and communities may be willing to participate in an administrative capacity in collecting data for appeals and ensuring that applications are completed”.

“Property owners should make an appeal in writing, along with supporting documentation. The jurisdiction can also file documentation either in support or against the property owner’s reason for the appeal.”

“The decision to accept or deny the appeal must come from FEMA, thereby removing the States and communities from the threat of legal action. FEMA should send written notice of its findings to the state, community and property owner.”

“Appeals rule requirements should not be written in a way that allows the property owners to easily avoid mitigation activities or higher flood insurance premiums.”

“States and communities should be an informational role; again, concern to keep the States and communities for the potential legal liabilities.”

“The local communities and the State officials should just assist people with the appeals. FEMA should make all your final decisions and handle all the paperwork. We also feel that there should be some formal recommendation from your parishes or local communities or State.”

“The appeal process should start with the community. If the owner of a property rejects an offer but can easily show that in purchasing, that [sic} he relied on a FIRM [Flood Insurance Rate Map} map that indicated the property was not on the mapped flood hazard area, this should not have to go to FEMA”.

“The appeal should go through the local government. They are the ones with claims on the property; they could validate it. They should come through the state as the administrator of the program. We could validate it; just like with an appeal from the local government, you concur, you may not concur, no comment, but that provides the additional insight.”

Both written and oral comments received addressed aspects of the SRL program, including the circumstances of severe repetitive loss property owners, the mitigation offer process, the effects of insurance premium increases on individuals who refuse mitigation offers, and the appeals process. In the context of preparing the rule, FEMA reviewed all of the comments received in response to the Federal Register notice. The program appeals component has been designed in consideration of all the comments received both orally and in writing.

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.

States and communities shall consult, to the extent practicable, and in accordance with criteria determined by the Administrator, with owners of the severe repetitive loss

properties to select the most appropriate eligible mitigation activity. These consultations shall be initiated in the early stages of the project development, and shall continue throughout the process. After FEMA awards the project grant, the sub-grantee shall continue to consult with the property owners to determine the specific conditions of the offer.

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

This collection does not provide payment to respondents. Property owner who brings an appeal will be responsible for paying his/her attorney's fees and costs to gather the necessary documentation and data to demonstrate the ground(s) for the appeal. Attorneys' fees and costs cannot be awarded by the independent third party. If the property owner prevails on the appeal, FEMA will adjust the chargeable risk premium to the amount in effect prior to the mitigation offer. If the property owner loses the appeal, the property owner's insurance rates will be increased, and the owner will also bear the costs of compensation for the independent third party hearing the appeal, if any.

10. Describe any assurance of confidentiality provided to respondents. Present the basis for the assurance in statute, regulation, or agency policy.

This collection does not describe any assurance of confidentiality provided to respondents that are not covered in regulation or agency policy.

11. Provide additional justification for any question 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.

This collection does not include questions of a sensitive nature that are commonly considered private.

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.

Section 79.7(d) codifies an appeals process for those property owners who have been offered mitigation assistance, but have declined the offer. The process requires policyholders to submit a written appeal to FEMA in the form of a signed letter explaining the nature of their claim appeal and documentation supporting their basis for the appeal. It is anticipated that the owner’s appeal will rely mostly on existing information, although there is a requirement for individual property owners to compile information and write a formal letter requesting the appeal.

FEMA estimates approximately 500 property owners will be made an offer of mitigation annually under the SRL program. FEMA estimates 3 percent of the property owners might decline the offer of mitigation assistance, and subsequently have their insurance premium increased. It is anticipated that not all of these property owners will appeal the premium increase particularly if they cannot support a claim based on the six (6) bases for an appeal. It is expected that only two-third of the total number of property owners will decline mitigation offers and submit a formal request for an appeal for insurance increase. Therefore, an estimated 500 properties offered mitigation assistance, it is expected that only 10 property owners will submit requests for any appeal.

Annual Hour Burden

Data Collection Activity/Instrument	No. of Respondents	Frequency of Responses	Hour Burden Per Response	Annual Responses	Total Annual Burden Hours
	(A)	(B)	(C)	(D) = (AxB)	(CxD)
Appeals Written Request and Supporting Documentation	10	1	10	10	100
TOTAL	10	1	10	10	100

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 an estimate of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost to the respondents of contracting out or paying outside parties for information collection activities should not be included here. Instead this cost should be included in Item 13.

According to the U.S. Department of Labor, Bureau of Labor Statistics website (www.bls.gov) the wage rate category for Individuals and Households is estimated to be \$17.10 per hour, therefore, the estimated burden hour cost to respondents is estimated to be \$1,710 annually.

Annual Cost to Respondents for Hour Burden

Respondent's Occupational Category	Total Annual Burden Hours	Mean Hour Rate (\$)	Average Cost per Respondent (\$)	Total Annual Cost Burden (\$)
Individual and Households	100	\$17.10	\$171.00	\$1,710.00
Total	100	\$17.10	\$171.00	\$1,710.00

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:

a. Operation and Maintenance and purchase of services component. These estimates should take into account cost associated with generating, maintaining, and disclosing or providing information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred.

SRL Appeals may incur a purchase of services cost for respondents. Although this cost is minimal, in accordance with “the Act”, any property owner who brings an appeal will be responsible for paying his/her attorney’s fees and costs to gather the necessary documentation and data to demonstrate the ground(s) for the appeal. FEMA estimated that each appeal will take approximately 40 hours for any attorney to collect additional documentation. The U.S. Department of Labor, Bureau of Labor Statistics website (www.bls.gov) estimate the wage rate for lawyers to be \$49.26 per hour. Therefore 40 hours x \$49.26 per hour is estimated to be \$1,970.40 per appeal x 10 respondents = \$19,704.00 annually.

b. Capital and Start-up-Cost should include, among other items, preparations for collecting information such as purchasing computers and software, monitoring sampling, drilling and testing equipment, and record storage facilities.

There is no Capital and Start-up Cost for this information collection.

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.

In accordance with “the Act”, if the property owner prevails on appeal, and if the independent third party hearing the appeal is compensated for such service, the NFIP shall bear the costs of such compensation. Each appeal may be assigned to an independent third party for review, or as a low cost option, the property owner may request a reviewer from FEMA Alternative Dispute Resolution office for the independent third party. In either case, FEMA estimated the reviewer will be an FEMA Attorney, and each appeal will take 40 hours to review and make a determination. FEMA determined wage rates using data from the U.S. Department of Labor, Bureau of Labor Statistics (BLS). Currently BLS data indicate that the average hourly earning of lawyers, as of May 2005, were \$49.26. Therefore, average annualized cost to the Federal Government for the SRL appeals process is estimated to be \$788,160.00 (\$1,970.40*10*40).

Annual Cost to the Federal Government

Item	Cost (\$)
Contract Costs [Describe]	
Staff Salaries [FEMA Attorney @ \$49.26 per hour at 40 hours annually]	\$788,160.00
Facilities [cost for renting, overhead, ect. for data collection activity]	
Computer Hardware and Software [cost of equipment annual lifecycle]	
Equipment Maintenance [cost of annual maintenance/service agreements for equipment]	
Travel	
Printing [number of data collection instruments annually]	
Postage [annual number of data collection instruments x postage]	
Other	
Total	\$788,160.00

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I in a narrative form. Present the itemized changes in hour burden and cost burden according to program changes or adjustments in Table 5. Denote a program increase as a positive number, and a program decrease as a negative number.

This is a new collection. Therefore, FEMA estimate a program increase of +100 total burden hours.

SRL Appeals may incur a purchase of services cost for respondents. FEMA estimated that each appeal will take approximately 40 hours for an attorney to collect additional documentation. The U.S. Department of Labor, Bureau of Labor Statistics website (www.bls.gov) estimate the wage rate for lawyers to be \$49.26 per hour. Therefore, 40 hours x \$49.26 per hour is estimated to be \$1,970.40 per appeal x 10 respondents = \$19,704.00 annually.

Itemized Changes in Annual Burden Hours

Data collection	Program Change	Program	Adjustment	Adjustment
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Activity/Instrument	(hours currently on OMB Inventory)	Change (New)	(hours currently on OMB Inventory)	(New)
Lawyer Services	0	\$19,704.00	0	0
Difference	0	+\$19,704.00	0	0
Total(s)	0	+\$19,704.00	0	0

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 to tabulate or publish the results of this collection.

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

A valid OMB control number, expiration date and burden disclosure notice will be displayed in all collection's material.

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

This collection does not seek exception to "Certification for Paperwork Reduction Act Submissions". This collection does not use efficient statistical survey methodology or use of information technology. Statistical Survey methodology "is not applicable" Question #3 in the supporting statement justifies the non-use of information technology.

B. Collections of Information Employing Statistical Methods.

THERE IS NO STATISTICAL METHODOLOGY INVOLVED IN THIS COLLECTION