

Office of the Comptroller of the Currency
Supporting Statement
Loans in Areas Having Special Flood Hazards – 12 CFR 22
OMB Control No. 1557-0202

A. Justification.

1. Circumstances that make the collection necessary:

This collection of information is set forth in OCC regulations at 12 CFR Parts 22 and 172 and is required by section 303(a)¹ and title V of the Riegle Community Development and Regulatory Improvement Act,² the National Flood Insurance Reform Act of 1994 amendments to the National Flood Insurance Act of 1968,³ and the Flood Disaster Protection Act of 1973.⁴

The collections of information pertain to loans secured by buildings and mobile homes located or to be located in areas determined by the director of the Federal Emergency Management Agency (FEMA) to have special flood hazards. Sections 22.6 and 172.6 apply to loans secured by buildings or mobile homes, regardless of location.

This collection of information, which previously applied only to national banks, has been merged with former OTS OMB Control No. 1550-0281. On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203, 124 Stat. 1376 (2010) (Dodd-Frank Act) was enacted. As part of the comprehensive package of financial regulatory reform measures enacted, Title III of the Dodd-Frank Act transfers the powers, authorities, rights and duties of the Office of Thrift Supervision to other banking agencies, including the OCC, on the "transfer date." The transfer date is July 21, 2011. As a result, the OCC now regulates both national banks and Federal savings associations.

2. Use of the information:

Notices and Disclosure Requirements:

12 CFR 22.6, 172.6 -- Required Use of Standard Flood Hazard Determination Form -- A national bank or Federal savings association must use the Standard Flood Hazard Determination Form developed by FEMA and must maintain a copy of the completed form for the period the bank or savings association owns the loan.

12 CFR 22.7, 172.7 -- Notice of Forced Placement of Flood Insurance -- If the borrower has not obtained required flood insurance or has purchased inadequate coverage, a national bank,

1 12 U.S.C. 4804.

2 42 U.S.C. 4104(a).

3 12 U.S.C. 4104a and 4104b.

4 12 U.S.C. 4012a and 4106(b).

Federal savings association, or its loan servicer must notify the borrower that the borrower should obtain adequate flood insurance coverage (forced placement notice). The forced placement notice informs the borrower of the amount of flood insurance to purchase. If the borrower fails to purchase insurance, the bank, savings association, or its servicer will purchase insurance on the borrower's behalf and may charge the borrower for the premiums and fees.

12 CFR 22.9, 172.9 -- Notice to Borrower and Servicer -- A national bank or Federal savings association making, extending, increasing or renewing a loan secured by property located in a special flood hazard area must provide a notice to the borrower and loan servicer (borrower notice). The borrower notice advises the borrower that the property securing the loan is located in a special flood hazard area and that flood insurance on the property securing the loan is required. It includes a description of the flood insurance purchase requirements and provides the borrower with information regarding whether flood insurance is available under the National Flood Insurance Program and the availability of Federal assistance in the event of a declared Federal flood disaster. The notice is used by the borrower to make borrowing decisions, including the collateral to be used to secure the loan. The notice is used by the loan servicer to carry out its servicing responsibilities.

12 CFR 22.10, 172.10 -- Notices to FEMA -- A national bank or Federal savings association making, increasing, extending, renewing, selling or transferring a loan secured by property located in a special flood hazard area must notify the Director of FEMA (or FEMA's designee) of the identity of the loan servicer (notice of servicer), and must notify the Director of FEMA of any change in the loan servicer (notice of servicer transfer) within 60 days of such change. FEMA uses the notice of servicer and notice of servicer transfer to maintain current information regarding to whom to direct notices or inquiries regarding flood insurance or to send notices of flood insurance policy renewals.

Recordkeeping Requirements

12 CFR 22.6(b), 172.6(b) -- Retention of Standard Flood Hazard Determination Form -- A national bank or Federal savings association must retain a copy of the completed Standard Flood Hazard Determination Form for the period of time the bank or savings association owns the loan. The OCC uses this record to verify regulatory compliance.

12 CFR 22.9 and 172.9, paragraphs (d) and (e) -- Record of Borrower and Servicer Receipt of Notice and Alternate Method of Notice -- A national bank or Federal savings association must retain a record of the receipt of the borrower notice by the borrower and the loan servicer for the period of time the bank or savings association owns the loan. In lieu of providing the borrower notice, a bank or savings association may obtain a satisfactory written assurance from a seller or lessor that, within a reasonable time before completion of the sale or lease transaction, the seller or lessor has provided such notice to the purchaser or lessee. The bank or savings association must retain a record of the written assurance from the seller or lessor for the period of time the bank owns the loan. The OCC uses these records to verify regulatory compliance.

3. Consideration of the use of improved information technology:

The notice of servicer and the notice of servicer transfer sent to FEMA may be provided electronically, if such transmission is acceptable to FEMA or FEMA's designee. The standard flood hazard determination form may be used in an electronic manner, and retention of the copy of the standard flood hazard determination may be done electronically.

4. Efforts to identify duplication:

The information required is unique to the bank and to the loan. It is not duplicated elsewhere.

5. Methods used to minimize burden if the collection has an impact on a substantial number of small entities:

Not applicable.

6. Consequences to the Federal program if the collection were conducted less frequently:

The information collection generally is conducted only for loans secured by buildings or mobile homes located in special flood hazard areas. Less frequent notice would substantially impair the effectiveness of the program.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:

None. The information collection is conducted in accordance with OMB guidelines in 5 CFR part 1320.

8. Efforts to consult with persons outside the agency:

On January 14, 2011, the OCC published a notice in the *Federal Register* (76 FR 2753) soliciting comments for 60 days on the proposed extension of the information collection. One comment, from a trade association, was received.

The commenter asserted that the OCC's burden estimates were understated. They further stated that the accuracy of the estimates is essential to the reduction of regulatory burden and policy discussions regarding the future of the national flood insurance program.

The commenter cited to Executive Order 13563 (E.O.), which emphasizes the importance of reducing regulatory burdens and cost. The E.O. requires that agencies: use the best, most innovative, and least burdensome tools to achieve regulatory goals; take into account quantitative and qualitative costs and benefits; ensure that regulations are accessible, consistent, written in plain language, and easy to understand; and measure and strive to improve the results of regulatory requirements. These requirements must be satisfied any time a regulation is changed. Because this information collection renewal involves no changes to the OCC's flood insurance regulations, the executive order does not apply.

The commenter also cited to OMB's Implementing Guidance for OMB Review of Agency Information Collection, which requires that the following be included in estimates of burden for covered information collections: design, procurement, and operation of data collection, data management and data reporting systems; response to changes in the requirements of an existing information collection; training staff on how to comply with the collection; time and resources required to perform all required tasks and certifications; and time and resources required to transmit the collection to the OCC or a third party. The design, procurement, and operation of the systems required to conduct the information collection are regarded as one-time start up costs that are phased out over time. The estimates provided were intended to cover the time and resources required to perform all required tasks and certifications and transmit required information to the OCC or a third party. There have been no changes in the requirements of the collection, therefore no time has been allotted for this item in the burden estimates. Lastly, the burden estimates do not include time devoted to ongoing training as the regulations contain no training requirement. In this case, the training of staff is considered a usual and customary business practice, which does not require that PRA burden be taken.

The commenter indicated that the OCC's estimate of 15 minutes per loan could only include the time required to complete the administrative tasks involved and not the time spent on procedures, systems, and monitoring to ensure compliance. They reference the "Interagency Questions and Answers Regarding Flood Insurance" issued in 2009, which reflects the complexity of compliance with the mandatory purchase obligation of the flood insurance statutes and regulations. Their members reported to them that one hour per loan is a more accurate estimate.

The commenter set out the following recommendations for revised burden estimates:

- Determining whether a building or mobile home offered as collateral will be located in a special flood hazard area:
 - 5-30 minutes per file to order the determination and review the completed form.
 - Time expended for commercial loans may be considerably longer than that for a less complicated consumer loan – 20-30 minutes or more per file.
- Providing the borrower and loan servicer with warning notice that the building securing the loan is located in a special flood hazard area:
 - 5 minutes per loan to prepare and send the notice to the borrower.
 - Most borrowers have questions about the determination and how to obtain insurance. The time required to assist borrowers may take from 5-10 minutes to several hours. If appropriate, the bank will make a joint request with the borrower to FEMA for a Letter of Determination Review.
- Ensuring that the borrower maintains flood insurance throughout the life of the loan; notify the borrower of the obligation and explain the force placement process:
 - The burden estimates should include the significant amounts of time required for the compliance structure necessary to ensure that lapses are discovered, notice is provided, and force placement occurs when necessary.
 - Banks have loan servicing review procedures to ensure continuous coverage, which require loan file reviews averaging 10 minutes. If a lapse is discovered, an

additional 15-25 minutes is required to send the 45-day notice to the borrower, monitor whether the insurance is purchased, and purchase a force placed policy when necessary.

- o FEMA regularly updates flood insurance rate maps to address changing risks. In the case of remapping, banks must order new determinations, notify customers if the structure is in a special flood hazard area, review policy adequacy, and force place a policy if necessary. Remapping requires a minimum of 30 minutes per file.
- o Interagency Q&As urge banks to conduct file reviews for purchased loans, loan participations, or syndication agreements. Depending on complexity, conducting the reviews and sending necessary notices requires 10-30 minutes.
 - Notifying FEMA in writing of the identity of the servicer and any change in servicer requires 2 minutes per loan.
 - Compliance monitoring and auditing to ensure compliance requires 20 minutes per loan.
 - Training for employees requires an average of 2 hours per employee each year.
 - Revising procedures pursuant to the OCC's final Q&As⁵ will require at least two hours.

In response to the commenter's recommendations for revised burden estimates, the OCC has the following responses and revised estimates. OCC has not taken any burden for Requests for Flood Zone Determination Review, as they are accomplished using FEMA forms approved under OMB Control No. 1660-0040. Assisting borrowers is a usual and customary business practice for which the OCC is not required to take burden under the PRA. There is no specific requirement for bank review of Flood Insurance Rate Maps and, therefore, the OCC has not taken burden for this procedure. In addition, the flood insurance regulation does not state that banks with loans in the affected area must undertake another loan file review. Lastly, there is no specific requirement in the Q&As for banks to conduct file reviews or for revision of policies and procedures to reflect the Q&As. Any such reviews or revisions would be usual and customary business practices and, therefore, the OCC is not required to take that PRA burden.

The OCC has considered the comment and has adjusted its revised estimates. The revised estimates are as follows:

- Retention of standard FEMA form: 2.5 minutes
- Notice of special flood hazards to borrowers and servicers: 5 minutes
- Notice to FEMA of servicer: 5 minutes.
- Notice to FEMA of change of servicer: 5 minutes
- Notice to borrowers of lapsed mandated flood insurance: 5 minutes
- Purchase of flood insurance on the borrower's behalf: 15 minutes
- Notice to borrowers mandated flood insurance due to remapping: 5 minutes
- Purchase flood insurance on the borrower's behalf due to remapping: 15 minutes

9. Payment to respondents:

None.

5 74 FR 35914 (July 21, 2009).

10. Any assurance of confidentiality:

There is no assurance of confidentiality.

11. Justification for questions of a sensitive nature:

There are no questions of a sensitive nature.

12. Burden estimate:

The OCC estimates that there are 871 HMDA national bank reporters who make an average of 3,591 home loans and 517 HMDA savings association reporters who make an average of 1,438 loans. There are an additional 716 national banks and 147 savings associations that are not HMDA reporters making on average 20 home loans. Thus, there are 1,587 national banks and 664 Federal savings associations that make on average 1,980 and 1,124 home loans, respectively. Of these loans, 20% (396 and 225 loans, respectively) are estimated to be in a Special Flood Hazard Area and require a notice to FEMA or its designee of the identity of the servicer. Of that 20%, 50% (198 and 112 loans, respectively) are estimated to require an additional notice to FEMA or its designee of a change in the identity of the servicer. Of the 20% of loans that are estimated to be in a Special Flood Hazard Area, 20% (79 and 45 loans, respectively) are estimated to have a lapse or underinsured situation that would require a notice to the borrower. Of the 20% that had a lapse or inadequate coverage, 25% (20 and 11 loans, respectively) would require the bank to issue a force placed policy.

Two percent of the home loans made will require the national bank or Federal savings association to provide notice to the borrower of the mandatory purchase requirement due to a remapping issue ((40 and 22 loans, respectively). Of that 2%, 50% would require the bank or savings association to issue a force placed policy (20 and 11 loans, respectively).

Recordkeeping:

Retention of Standard FEMA Form:

HMDA national banks:

871 respondents x 3,591 annual frequency x 2.5 minutes = 130,323 hours

HMDA savings associations:

517 respondents x 1,438 annual frequency x 2.5 minutes = 30,977 hours

Non-HMDA national banks:

716 x 20 annual frequency x 2.5 minutes = 597 hours

Non-HMDA savings associations:

147 respondents x 20 annual frequency x 2.5 minutes = 123 hours

Total Recordkeeping Burden: 162,020 hours.

Disclosures:

Notice of Special Flood Hazards to Borrowers and Servicers:

1,587 national banks x 396 responses x 5 minutes per response = 52,371 hours

664 Federal savings associations x 225 responses x 5 minutes per response = 12,450 hours

Notice to FEMA of Servicer:

1,587 national banks x 396 responses x 5 minutes per response = 52,371 hours

664 Federal savings associations x 225 responses x 5 minutes per response = 12,450 hours

Notice to FEMA of change of Servicer:

1,587 national banks x 198 responses x 5 minutes per response = 26,186 hours

664 Federal savings associations x 112 responses x 5 minutes per response = 6,197 hours

Notice to Borrowers of Lapsed Mandated Flood Insurance:

1,587 national banks x 79 responses x 5 minutes per response = 10,448 hours

664 Federal savings associations x 45 responses x 5 minutes per response = 2,490 hours

Purchase Flood Insurance on the Borrower's Behalf:

1,587 national banks x 20 responses x 15 minutes per response = 7,935 hours

664 Federal savings associations x 11 responses x 15 minutes per response = 1,826 hours

Notice to Borrowers of Mandated Flood Insurance due to Remapping:

1,587 national banks x 40 responses x 5 minutes per response = 5,290 hours

664 Federal savings associations x 22 responses x 5 minutes per response = 1,217 hours

Purchase Flood Insurance on the Borrower's Behalf due to Remapping:

1,587 national banks x 20 responses x 15 minutes per response = 7,935 hours

664 Federal savings associations x 11 responses x 15 minutes per response = 1,826 hours

Total Disclosure Burden: 200,992

Total Burden: 363,012 hours

The estimated cost of the reporting and disclosure hour burden is as follows:

Clerical:	99% @ 200,992 @ \$20	\$ 3,979,641.60
Middle mgmt:	01% @ 200,992 @ \$40	\$ 80,396.80
Total:		\$ 4,060,038.40

The estimated cost of the recordkeeping hour burden is as follows:

Clerical:	99% @ 162,020 @ \$20	\$ 3,207,996.00
Middle mgmt:	01% @ 162,020 @ \$40	<u>\$ 64,808.00</u>
Total:		<u>\$ 3,272,804.00</u>
Total Cost:		\$ 7,332,842.40

13. Estimate of annualized costs to respondents:

There are no capital or start-up costs associated with this collection. In addition, there are no system and technology acquisition or operation and maintenance costs.

14. Estimate of annualized costs to the government:

None.

15. Changes in burden:

Former:	2,300 respondents;	58,650 hours
New:	2,251 respondents;	363,012 hours
Difference:	- 49 respondents;	+ 304,362 hours

16. Information regarding collections whose results are planned to be published for statistical use:

No publication for statistical use is contemplated.

17. Display of expiration date:

Not applicable.

18. Exceptions to certification statement:

Not applicable.

B. Collections of Information Employing Statistical Methods.

Not applicable.