

Supporting Statement for Paperwork Reduction Act Submissions

OMB Control Number: 1660 -104

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.

To implement the Flood Insurance Act of 1968, 42 USC 4102a, as amended, FEMA published a Final Rule for the 44 CFR Part 79.7(d), Flood Mitigation Grants and Hazard Mitigation Planning, that implements the SRL program appeals process. This Final 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. This Final Rule was made effective on October 16, 2009.

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 below:

(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 the FEMA Alternative Dispute Resolution (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. However, electronic submission is used for emails (50%), mail (25%), and fax (25%). 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.

This information collection does not have an impact on small businesses or other small 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.

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.

(b) Requiring 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.

(d) Requiring respondents 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.

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

(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.

(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.

The special circumstances contained in item 7 of the supporting statement are not applicable to this information 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.

A 60-day Federal Register Notice inviting public comments was published on March 14, 2011, Volume 76 FR 13652. **No comments were received.** See attached copy of the published notice included in this package.

A 30-day Federal Register Notice inviting public comments was published on June 8, 2011, Volume 76 FR 33326. **No comments were received.** See attached copy of the published notice included in this package.

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.

There is no effort necessary to consult with persons outside the agency.

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.

A Privacy Threshold Analysis (PTA) was completed for this collection and forwarded to the FEMA Privacy Office for review. The PTA is still currently being reviewed. The status of this information remains the same as of June 2011.

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.

There are no questions of sensitive nature.

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 for each collection instrument (separately list each instrument and describe information as requested). 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-thirds 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. The total annual burden is estimated to be 10 responses x 10 hours per response = 100 burden hours.

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. NOTE: The wage-rate category for each respondent must be multiplied by 1.4 and this total should be entered in the cell for “Avg. Hourly Wage Rate”. 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.

Estimated Annualized Burden Hours and Costs								
Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Total No. of Responses	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Individuals or Households	Appeals Written Request and Supporting Documentation / No Form	10	1	10	10	100	\$23.94	\$2,394
Total		10		10		100		\$2,394

• Note: The “Avg. Hourly Wage Rate” for each respondent includes a 1.4 multiplier to reflect a fully-loaded wage rate.

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 \$23.94 per hour including the wage rate multiplier, therefore, the estimated burden hour cost to respondents is estimated to be \$2,394 annually.

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) estimates the wage rate for lawyers to be \$54.44 per hour. Therefore 40 hours x \$76.22 (includes the wage multiplier) per hour is estimated to be \$ 3,048.80 per appeal x 10 respondents = \$30,488 annually.

Annual Cost Burden to Respondents or Record-keepers

Data Collection Activity/Instrument	*Annual Capital Start-Up Cost (investments in overhead, equipment and other one-time expenditures)	*Annual Operations and Maintenance Cost (such as recordkeeping, technical/professional services, etc.)	Annual Non-Labor Cost (expenditures on training, travel and other resources)	Total Annual Cost to Respondents
Appeals Written Request and Supporting Documentation / No Form		\$30,488		\$30,488
Total		\$30,488		\$30,488

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 the BLS data indicate that the average hourly earnings of lawyers is \$76.22 with the wage multiplier. Therefore, average annualized cost to the Federal Government for the SRL appeals process based on 10 responses is estimated to be \$30,488.

Annual Cost to the Federal Government

Item	Cost (\$)
Contract Costs [Describe]	
Staff Salaries [1 FEMA Attorney @ \$76.22 per hour times 10 responses at 40 hours per response]*	\$30,488
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	\$30,488

* Note: The "Salary Rate" includes a 1.4 multiplier to reflect a fully-loaded wage rate.

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.

A "Program increase" is an additional burden resulting from an federal government regulatory action or directive. (e.g., an increase in sample size or coverage, amount of information, reporting frequency, or expanded use of an existing form). This also includes previously in-use and unapproved information collections discovered during the ICB process, or during the fiscal year, which will be in use during the next fiscal year.

A "Program decrease", is a reduction in burden because of: (1) the discontinuation of an information collection; or (2) a change in an existing information collection by a Federal agency (e.g., the use of sampling (or smaller samples), a decrease in the amount of information requested (fewer questions), or a decrease in reporting frequency).

"Adjustment" denotes a change in burden hours due to factors over which the government has no control, such as population growth, or in factors which do not affect what information the government collects or changes in the methods used to estimate burden or correction of errors in burden estimates.

Explain:

There are no changes to the annual hour burden and there has been no change to the information being collected.

Itemized Changes in Annual Cost Burden						
Data collection Activity/Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New)	Difference
Appeals Written Request and Supporting Documentation / No Form				\$1,710	\$2,394	+\$684
Total(s)				\$1,710	\$2,394	\$684

Explain:

The adjustment increase in the annual cost burden results from an increase in the mean wage and the introduction of a multiplier (1.4) to account for a fully loaded average wage rate.

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.

FEMA does not intend to employ the use of statistics or the publication thereof for this information 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.

FEMA will display the expiration date for OMB approval of this information collection.

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

FEMA does not request an exception to the certification of this information collection.

B. Collections of Information Employing Statistical Methods.

There is no statistical methodology involved in this collection.