

Supporting Statement for Paperwork Reduction Act Submission

3133-0143

Loans in Areas Having Special Flood Hazards

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.*

This collection of information is set forth in NCUA regulations at 12 C.F.R. Part 760 and is required by the National Flood Insurance Reform Act of 1994's amendments to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (Flood Act). 42 U.S.C. 4001 et seq. The collection of information pertains 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. The obligation of federally insured credit unions to comply with Part 760 is mandatory.

As required by the Flood Act, NCUA and the other federal financial institution regulators¹ (Agencies) have coordinated the issuance of substantially similar joint implementing regulations for the financial institutions they supervise. NCUA and the Agencies jointly issued a proposed rule to amend their regulations regarding loans in areas having special flood hazards to implement provisions of the Biggert-Waters Flood Insurance Reform Act of 2012.² With regard to the collections of information in Part 760, the proposed rule adds a notice requirement stating that regulated lending institutions or loan servicers that are required to escrow all premiums and fees for required flood insurance on residential improved real estate must issue a written notice to the borrower.

- 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.*

The information collection requirements under the current Part 760 are recordkeeping and disclosure requirements imposed on federally insured credit unions. OMB Control No. 3133-0143. The information collection is required to evidence compliance with the requirements of the Flood Act with respect to lenders and servicers. The information collection requirements are triggered by specific events in the lending process. The records are maintained by credit unions and are not provided to NCUA. In general, the Flood Act and Part 760 provide that a lender (credit union) shall not make, increase, extend, or renew a loan secured by a building or mobile home located in a special flood hazard area unless the security property is covered by flood insurance for the term of the loan. With respect to the recordkeeping and disclosure provisions, the current regulation requires credit unions to:

¹ The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Farm Credit Administration.

² Pub. L. 112-141, 126 Stat. 916 (2012).

- Retain a completed copy of the Standard Flood Hazard Determination (SFHD) form developed by FEMA. The SFHD form is used by lenders to document their determination of whether improved property securing a loan is in a special flood hazard area;
- Notify a borrower and servicer when loans secured by improved property are determined to be in a special flood hazard area and notify them whether flood insurance is available;
- Notify the borrower and servicer if the secured property becomes newly located in a special flood hazard area due to remapping of flood hazard areas by FEMA, which would obligate the borrower to obtain flood insurance;
- Notify a borrower whose mandated flood insurance policy has expired of the borrower's obligation to obtain flood insurance. If the borrower fails to obtain the flood insurance following this notification, the credit union or its servicer must purchase flood insurance on the borrower's behalf and charge the borrower for the cost of the premiums and fees (forced placement). The credit union or its servicer must force-place flood insurance on the borrower's behalf if the borrower, after notification, fails to obtain mandated flood insurance due to remapping; and
- Notify FEMA of the identity of, and any change in, the servicer of a loan secured by improved property in a special flood hazard area.

The notice to the borrower is used to assist the borrower in decision-making about purchasing flood insurance for the collateral used to secure the loan.

The borrower notice is provided to the loan servicer to inform the servicer of its responsibility to perform certain tasks for the lender, such as collecting flood insurance premiums. The Flood Act requires the credit union to retain a record of the receipt of the borrower notice by the borrower and the servicer.

The credit union uses the forced placement notice to inform the borrower of his or her obligation to purchase and maintain flood insurance for the term of the loan.

FEMA uses the servicer notice(s) to maintain current information on where to direct inquiries or send notices of flood insurance renewals.

The NCUA uses the completed copy of the SFHD form and receipts from the borrower and servicer to verify compliance.

The proposed rule adds a new notice requirement stating that credit unions or loan servicers that are required to escrow all premiums and fees for required flood insurance must issue a written notice to the borrower. This notice depends on the origination date

of the loan, and the proposed rule provides model language for lenders. In addition, a statutory exception exists for credit unions having assets less than \$1 billion and who do not have a current escrow policy.

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.

Credit unions may use any information technology available to provide any required notices or to retain required records.

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 is unique to the credit union and to the loan. It is not duplicated anywhere.

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 burden.

The collection of information does not have a significant impact on a substantial number of small credit unions. Under Part 760, credit unions may use the SFHD form provided by FEMA to notify borrowers. In Part 760, NCUA also supplies model notices that satisfy the borrower notice requirements. The proposed rule supplies a model notice that satisfies the borrower escrow notice requirement.

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

This information collection is conducted only for loans secured by buildings or mobile homes located in special flood hazard areas. Less frequent collection would substantially impair the effectiveness of the program. If the collection occurred less frequently, NCUA would be unable to verify compliance.

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

- *requiring respondents to report information to the agency more often than quarterly;*
- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*

- *requiring respondents to submit more than an original and two copies any document;*
- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
- *in connection with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study;*
- *requiring the use of a statistical data classification that has not be reviewed and approved by OMB;*
- *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; or*
- *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.*

Not applicable. This information collection is conducted in accordance with OMB's guidelines under NCUA's flood insurance regulation at 12 CFR Part 760.

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. 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.*

This is a request for a revision to a current collection under a proposed rule. The proposed rule was published on October 30, 2013 with a 60-day comment period. (78 Fed. Reg. 65108). No comments were received in relation to this collection.

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

Not applicable; no payment or gift provided.

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

Not applicable. Because NCUA does not collect any information, no issue of confidentiality would normally arise. However, if the records required by the Part 760

requirements come into possession of NCUA during an examination of a credit union, those records would be protected from disclosure by exemption 8 of the Freedom of Information Act (FOIA). 5 U.S.C. §552(b)(8).

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.

No questions of a sensitive nature are involved.

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

- *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 desirable. 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.*
- *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.*
- *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.*

There are a number of elements (ICs) related to this collection of information. Previously, NCUA combined all of the required disclosure elements into one IC (IC 2, Execution of Additional Disclosures). For clarification purposes, NCUA has separated each individual disclosure requirement.

Please note that some of the numbers have been rounded up for purposes of this supporting statement, and the burden hours for each calculation are based on exact numbers.

IC 1. Retention of Standard Flood Hazard Determination (SFHD) Form

Credit unions are required to retain a copy of the SFHD. The NCUA estimates that 4,192 federally insured credit unions will each have 327.69 transactions annually with secured property located in special flood hazard areas requiring the retention of the SFHD form. The NCUA further estimates that it will take a credit union approximately 2.5 minutes to retain this form.

4,192 federally insured credit unions x 327.69 responses x 2.5 minutes each = 57,236.52 burden hours.

Execution of Additional Disclosures:

Credit unions are required to provide different notices and purchase force-placed flood insurance for borrowers if there is a lapse in coverage or lack of sufficient coverage.

IC 2. Notice of Special Flood Hazards

For the notification of special flood hazards, the NCUA estimates that 4,192 federally insured credit unions will each have 65.54 transactions annually. It is estimated that a credit union will take approximately 5 minutes to execute this notice.

4,192 federally insured credit unions x 65.54 responses x 5 minutes each = 22,895.30 burden hours.

IC 3. Notice to FEMA of Servicer

For the notification to FEMA of the servicer, the NCUA estimates that 4,192 federally insured credit unions will each have 65.54 transactions annually. It is estimated that a credit union will take approximately 5 minutes to execute this notice.

4,192 federally insured credit unions x 65.54 responses x 5 minutes each = 22,895.30 burden hours.

IC 4. Notice to FEMA of Change in Servicer

For the notification to FEMA of a change in the servicer, the NCUA estimates that 4,192 federally insured credit unions will each have 32.77 transactions annually. It is estimated that a credit union will take approximately 5 minutes to execute this notice.

4,192 federally insured credit unions x 32.77 responses x 5 minutes each = 11,447.65 burden hours.

IC 5. Notice to Borrower of Lapsed Flood Insurance

For the notification to the borrower of lapsed mandated flood insurance, the NCUA estimates that 4,192 federally insured credit unions will each have 13.11 transactions annually. It is estimated that a credit union will take approximately 5 minutes to execute this notice.

4,192 federally insured credit unions x 13.11 responses x 5 minutes each = 4,579.76 burden hours.

IC 6. Purchase of Force – Placed Flood Insurance for Borrower

For the purchase of force-placed flood insurance on the borrower's behalf, the NCUA estimates that 4,192 federally insured credit unions will each have 3.28 transactions annually. It is estimated that a credit union will take approximately 15 minutes to purchase such insurance.

4,192 federally insured credit unions x 3.28 responses x 15 minutes each = 3,437.44 burden hours.

IC 7. Notice to Borrower and Servicer of Newly Located Property

For the notification to the borrower and servicer if the secured property becomes newly located in a special flood hazard area due to remapping, the NCUA estimates that 4,192 federally insured credit unions will each have 6.55 transactions annually. It is estimated that a credit union will take approximately 5 minutes to execute this notice.

4,192 federally insured credit unions x 6.55 responses x 5 minutes each = 2,288.13 burden hours.

IC 8. Purchase of Force – Placed Insurance for Borrower from Remapping

For the purchase of force-placed insurance on the borrower's behalf due to remapping, the NCUA estimates that 4,192 federally insured credit unions will each have 3.28 transactions annually. It is estimated that a credit union will take approximately 15 minutes to purchase such insurance.

4,192 federally insured credit unions x 3.28 responses x 15 minutes each = 3,437.44 burden hours.

Total of additional disclosure hours is 70,981.02 hours.

IC 9. One-Time Escrow Notice

The proposed rule adds a notice requirement stating that credit unions or servicers that are required to escrow all premiums and fees for required flood insurance must issue a written notice to the borrower. Because of the statutory exception, NCUA estimates that only 206 credit unions will issue this notice. NCUA estimates that each credit union will have one transaction annually. NCUA estimates it will take a credit union approximately 40 hours to upgrade its computer systems and software and issue this notice in the first year.

206 federally insured credit unions x 1 response x 40 hours each = 8,240 burden hours.

NCUA estimates that the total annual burden (rounded up) for the collection of information is 136,459 burden hours.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

Not applicable.

14. Provide estimates of annualized cost to the Federal government.

Not applicable. The estimated cost to NCUA is negligible.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

This is a revision to a currently approved collection. The program requirements have not changed, except for the addition of the escrow notice as required by the Biggert-Waters Act. However, based on the most recent calculations from NCUA's Call Reports, the number of credit unions has increased. In addition, NCUA has aligned its burden hour estimates with those of the Agencies based on the NCUA's and the Agencies' experience with the collections of information under their respective flood insurance regulations. Therefore, NCUA has revised the total estimated burden hours for each recordkeeping and disclosure requirement and the new escrow notice. The increase in the burden hours is due to the new escrow notice and an increase in the number of credit unions.

Changes in Burden

Former:	3,727 respondents;	127,927 hours
New:	4,192 respondents;	136,459 hours
Difference:	+ 465 respondents;	+ 8532 hours

16. For collections of information whose results will be published, outline plans for tabulation, and any 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.

Not applicable. No publication will be made as a result of this proposed rule.

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

NCUA is not seeking approval to not display the expiration date for OMB approval of the 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.

There are no exceptions to the certification statement.