

Supporting Statement for Paperwork Reduction Act Submission
3133-0143
Loans in Areas Having Special Flood Hazards
October 2014

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 rule² in October 2013 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 (Biggert-Waters Act).³ After the passage of the Homeowner Flood Insurance Affordability Act (HFIAA) in March 2014⁴, NCUA and the Agencies jointly issued a proposed rule to implement provisions of HFIAA.⁵ With regard to the collections of information in Part 760, the proposed rule continued the same notice requirements from the October 2013 Proposed Rule⁶ regarding the requirement to escrow premiums and fees for flood insurance.

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,

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 78 FR 65107 (Oct. 30, 2013).

³ Pub. L. 112-141, 126 Stat. 916 (2012).

⁴ Pub. L. 113-89; 128 Stat. 1020 (2014).

⁵ TBD.

⁶ The Agencies plan to finalize the October 2013 Proposed Rule at a later date.

extend, or renew a loan secured by a building or mobile home located in a special flood hazard area unless the 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:

- 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 a building or mobile home offered as collateral security for a loan is or will be located in a special flood hazard area that offers flood insurance;
- Notify a borrower and servicer when a building or mobile home offered as collateral security for a loan is 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 or if the policy covers an amount less than the required amount, of the borrower's obligation to obtain a flood insurance policy for the required amount. If the borrower fails to obtain a flood insurance policy for the required amount 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 a building or mobile home located or to be located 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.

Biggert-Waters required escrow for all new and outstanding loans in a SFHA, unless certain exceptions applied. HFIAA added several new exceptions, and most notably, ties the escrow requirement to a tripwire event (the origination, refinance, increase, extension, or renewal of a loan on or after January 1, 2016). While a regulated lending institution is not required to escrow until a tripwire event occurs, such institution is still required to offer and make available the option to escrow for all outstanding designated loans. This requirement is identical to the prior PRA burden in the October 2013 Proposed Rule, which required an escrow notice for all outstanding designated loans. However, there may be fewer notices because of the additional exceptions under HFIAA. The Agencies believe the paperwork burden estimates remain unchanged from the prior PRA burden estimated in the October 2013 Proposed Rule.

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 Ford 83-1), 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 _____ with a 60-day comment period. (). The Agencies will carefully consider any comments received in relation to this collection.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration 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. For clarification purposes, NCUA has separated each individual recordkeeping and disclosure requirement.

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 if there is a 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 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. However, there may be fewer notices because of the additional exceptions under HFIAA. 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. Biggert-Waters included a small lender exception for credit unions having assets less than \$1 billion and that do not have a current escrow policy. Since NCUA does not have data on how many credit unions currently have an escrow policy, NCUA is estimating that all respondents will send out this one-time escrow notice.

4,192 federally insured credit unions x 1 response x 40 hours each = 167,680 burden hours.

Total Annual Burden

IC – Retention of SFHD Form: 57,236.52 burden hours.

ICs – Additional Disclosures: 70,981.02 hours.

IC – One-Time Escrow Notice: 167,680 hours.

NCUA estimates that the total annual burden for the collection of information is 295,897.54 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 that there are more statutory exceptions for the escrow notice as provided in the Biggert-Waters Act and HFIAA. In addition, NCUA has aligned its burden hour estimates for the one-time escrow notice with those of the other Agencies. NCUA and the Agencies do not have call report data on which institutions currently have an escrow policy. Therefore, NCUA has revised the total estimated burden hours

for the new escrow notice. The increase in the burden hours is due to calculating the burden hours for all respondents for the new escrow notice.

Changes in Burden

Former:	4,192 respondents;	136,459 hours
New:	4,192 respondents;	295,897.54 hours
Difference:	0 respondents;	+ 159,438.54 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 83-1.

There are no exceptions to the certification statement.