Office of the Comptroller of the Currency
Supporting Statement
Loans in Areas Having Special Flood Hazards
OMB Control No. 1557-0326

A. Justification.

1. Circumstances that make the collection necessary:

The National Flood Insurance Act of 1968 (1968 Act)[1] and the Flood Disaster Protection Act of 1973 (FDPA),[2] as amended, (the Federal flood insurance statutes) govern the National Flood Insurance Program (NFIP).[3] These laws make Federally subsidized flood insurance available to owners of improved real estate or mobile homes located in participating communities and require the purchase of flood insurance in connection with a loan made by a regulated lending institution[4] when the loan is secured by improved real estate or a mobile home located in special flood hazard areas (SFHA) in which flood insurance is available under the NFIP.[5] The OCC, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Farm Credit Administration, and National Credit Union Administration (the Agencies) each have issued regulations implementing these statutory requirements for the lending institutions they supervise.[6]

This information collection request (ICR) is being submitted in connection with a proposal by the Agencies to amend their regulations regarding loans in areas having special flood hazards to implement the private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act).[7] The proposed rule would require regulated lending institutions to accept policies that meet the statutory definition of private flood insurance in the Biggert-Waters Act and permit regulated lending institutions to accept flood insurance, provided by private insurers, that does not meet the statutory definition of "private flood insurance" on a discretionary basis, subject to certain restrictions.

---

1 Pub. L. 90-448, 82 Stat. 572 (1968).
2 Pub. L. 93–234, 87 Stat. 975 (1973).
3 These statutes are codified at 42 U.S.C. 4001-4129. The Federal Emergency Management Agency (FEMA) administers the NFIP; its regulations implementing the NFIP appear at 44 CFR parts 59-77.
4[4] The FDPA defines "regulated lending institution" to mean any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation. 42 U.S.C. 4003(a)(1).
5 An SFHA is an area within a flood plain having a one percent or greater chance of flood occurrence in any given year. 44 CFR 59.1. SFHAs are delineated on maps issued by the FEMA for individual communities. 44 CFR part 65. A community establishes its eligibility to participate in the NFIP by adopting and enforcing flood plain management measures that regulate new construction and by making substantial improvements within its SFHAs to eliminate or minimize future flood damage. 44 CFR part 60.
6 See 12 CFR part 22 (OCC), part 208 (Board), part 339 (FDIC), part 614 (FCA), and part 760 (NCUA).
7 Pub. L. 112-141, 126 Stat. 916 (2012).

2. Use of the information:

Under § 22.3(c)(2), a policy is deemed to meet the definition of private flood insurance if, among other things, (i) it includes a written summary demonstrating how the policy meets the definition of private flood insurance, identifying the provisions of the policy that meet each criterion in the definition and confirms that the insurer is regulated in accordance with that definition and (ii) the institution verifies in writing that the policy includes the provisions identified by the insurer in the summary provided and that these provisions satisfy the criteria included in the definition.

Under § 22.3(c)(3)(iv)(B)(3), institutions have the discretion to accept a flood insurance policy issued by a private insurer that is not issued under the NFIP, does not meet the definition of private flood insurance, and does not satisfy § 22.3(c)(3)(iv)(A) if, among other things, the institution has documented in writing that it has compared the private policy with an SFIP to determine the differences between the private policy and an SFIP and reasonably determines that the private policy provides sufficient protection of the loan.

Under § 22.3(c)(4)(iv), institutions may accept a private policy issued by a mutual aid society if, among other things, it has determined that the policy provides sufficient protection of the loan secured by the property located in the SFHA and documented its conclusions.

3. Consideration of the use of improved information technology:

Any improved information technology may be used to meet the requirements of the regulation.

4. Efforts to identify duplication:

The information required is unique and is not duplicated elsewhere.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

There are no alternatives that would result in lowering the burden on small institutions, while still accomplishing the purpose of the rule.

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

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:

This information collection was published for comment in connection with a notice of proposed rulemaking.

9. Payment to respondents:

None.

10. Any assurance of confidentiality:

The information collected will be kept confidential to the extent permitted by law.

11. Justification for questions of a sensitive nature:

Not applicable. No personally identifiable information is collected.

12. Burden estimate:

Existing Rules:

Sec.	Description	Type of Burden	Number of Respondents	Annual Frequency	Time per Response	Total Estimated Burden Hours
22.6	Retention of Standard FEMA Form (Existing Rule)	Recordkeeping	1,550	336	2.5 min.	21,700
22.9	Notice of Special Flood Hazards to Borrowers and Servicers (Existing Rule)	Disclosure	1,550	60	5 min.	7,750
22.10	Notice to FEMA of Servicer (Existing Rule)	Disclosure	1,550	60	5 min.	7,750
22.10	Notice to FEMA of Change of Servicer (Existing Rule)	Disclosure	1,550	30	5 min.	3,875
22.7	Notice to Borrowers of Lapsed Mandated Flood Insurance (Existing Rule)	Disclosure	1,550	7	5 min.	904
22.7	Purchase of Flood Insurance on the Borrower's Behalf (Existing Rule)	Disclosure	1,550	3	15 min.	1,163
22.7	Notice to Borrowers of Lapsed Mandated Flood Insurance Due to Remapping (Existing Rule)	Disclosure	1,550	5	5 min.	646
22.7	Purchase of Flood Insurance on the Borrower's Behalf Due to Remapping (Existing Rule)	Disclosure	1,550	3	15 min.	1,163
22.5	Escrow Notice (Final Rule)	Disclosure	1,550	1	40	62,000
	Total					**106,951**

Proposed Rule:

Sec.	Description	Type of Burden	Number of Respondents	Annual Frequency	Time per Response	Total Estimated Burden Hours
	One-time implementation of policies and procedures.	Recordkeeping	1,316	1	20	26,320
22.3(c)(2)(i)	Compliance Aid Provision: If the policy includes/is accompanied by, written summary demonstrating that the policy contains each criterion included in the definition of private flood insurance, with the specific provisions in the policy identified, and that the insurer is regulated in accordance with definition.	Disclosure	25	1	40	1,000
22.3(c)(2)(ii)	Compliance Aid Provision: The-supervised institution verifies in writing that the policy includes the provisions identified by the insurer in the summary provided pursuant to paragraph (c)(2)(i) of this section and that these provisions satisfy the criteria included in the definition.	Recordkeeping	1,316	50	1	65,800
22.3(c)(3)(iv)(B)(3)	Discretionary Acceptance Criteria: Supervised institution documents its findings that required criteria have been met.	Recordkeeping	1,316	10	2	26,320
22.3(c)(4)(iv)(C)	Exception for mutual aid societies: Supervised institution documents its conclusions that the required criteria have been met.	Recordkeeping	1,316	4	2	10,528
Total			**1,341**			**129,968**

Cost of Hour Burden:

106,951 + 129,968 = 236,919 x $101 = $23,928,819

To estimate average hourly wages we reviewed data from May 2015 for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for depository credit intermediation (NAICS 522100). To estimate compensation costs associated with the rule, we use $101 per hour, which is based on the average of the 90th percentile for seven occupations adjusted for inflation (2 percent), plus an additional 30 percent to cover private sector benefits. Thirty percent represents the average private sector costs of employee benefits.

Burden Estimate Methodology

Estimate of Respondent Count for All Agencies

Financial Accounts of the U.S.
September 16, 2016
http://www.federalreserve.gov/releases/z1/current/z1.pdf
Table L.217 Total Mortgages (page 126)

		Billions of Dollars
Line 19	U.S.-Chartered Depository Institutions	4432.6
Line 20	Foreign Banking Offices in U.S.	60.5
Line 21	Banks in U.S.-Affiliated Areas	+ 26.2
		4519.3
Line 22	Credit Unions	+ 416.7
		4396.0

Assumptions:

FDIC, FRB, and OCC hold all mortgages in lines 19-21 proportioned as follows based on Call Report Data:
FDIC = 28%
FRB = 14%
OCC = 58%

FDIC, FRB, OCC, and NCUA hold all mortgages in Lines 19-22 4936.0
Proportions of the total are as follows:

OCC = (.58 x 4519.3)/4936	53%
FRB = (.14 x 4519.3)/4936	13%
FDIC = (.28 x 4519.3)/4936	26%
NCUA = 416.7/4936	8%
	100%

§ 22.3(c)(2)(i):

FEMA lists 100 companies as providing private flood insurance. Assuming these companies will want to continue to participate in this market, we assume that each company will require 40 hours per year assuring and documenting that its policies meet the requirements necessary to participate in this market.

This total burden (4,000 hours) is divided evenly between the four agencies.

§§ 22.3(c)(2)(ii), 22.3(c)(3)(iv)(B)(3), 22.3(c)(4)(iv)(C):

Number of Flood Insurance Policies in high-risk areas (FEMA 2016) 3,537,059	
Assumed that 4.5% will be private	x 0.045
	159,168
OCC's Share (53%)	84,359
Divided by Number of OCC Institutions	1,316
Number of Loans per institution per year	64

64 allotted three ways (80%, 15%, and 5%):

§ 22.3(c)(2)(ii) = approximately 80% = 50
§ 22.3(c)(3)(iv)(B)(3) = approximately 15% = 10
§ 22.3(c)(4)(iv)(C) = approximately 5% = 4

13. Estimate of annualized costs to respondents:

None.

14. Estimate of annualized costs to the government:

None.

15. Changes in burden:

The increase in burden is due to statutory and regulatory changes.

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.