

June 22, 2012

Susan Bernstein, Esq.  
I&PR, Mitigation Directorate  
Via email at susan.bernstein@dhs.fema.gov

Re: FEMA's Release of Standard Flood Hazard Determination Form (FEMA Form 086-0-32)

Dear Ms. Bernstein:

As posted to FEMA's website ([www.fema.gov/library/viewRecord.do?id=1394](http://www.fema.gov/library/viewRecord.do?id=1394)), the National Flood Determination Association (NFDA) understands that the new version of the Standard Flood Hazard Determination Form (FEMA Form 086-0-32, herein the "Form") is considered effective and that a transition period of six months has been authorized by FEMA for its use. The NFDA appreciates the inclusion of some of the recommendations that the NFDA and Mortgage Bankers Association (MBA) jointly made in our December 20, 2011 letter with regard to the proposed changes. However, we have found inconsistencies and ambiguities within the newly-published Form, its official instructions and on FEMA's website that are already leading to varying interpretations and confusion for both preparers and users of the Form. In fact, lending institutions and flood determination companies have been seeking guidance from NFDA relative to these uncertainties. It is our expectation that FEMA will address these concerns by considering slight modifications described herein during this transition period before the Regulatory Agencies and the Lending Institutions make any changes.

- **Change Collateral Description (Section I, Box 2) to "Property Address and/or Parcel Number"**

Based on the new version of the Form, one may infer that the "parcel number" is required even though the official instructions do not include reference to the "parcel number". Inserting "/or" to read "Property Address and/or Parcel Number" will make the intent clear that the parcel number is optional and will make the Form consistent with the official instructions.

If the parcel number is deemed to be required by the Federal Regulatory Agencies, there will be a significant loss in efficiency and productivity which will result in delayed closings and increased closing costs. For many lenders, parcel numbers are not available when the flood zone determination is ordered. Adding new data requirements not related to lender compliance or to the determination of a property's flood zone status requires additional resources and manual intervention but offers little or no value to these processes. Also, lenders do not typically have the core competency to recognize or understand the irregularities in parcel numbers from one state or region of the country to the next, as described in further detail in the following paragraph.

Parcel numbers may change over time, there may be more than one parcel number for a given property, there may be multiple parcel numbering systems within a single jurisdiction, and there may be multiple levels of government which identify a single parcel by different numbers. For example, in Westchester County, New York, the county has adopted a new parcel numbering system that has not been fully adopted by the incorporated towns and villages. In Travis County, Texas, two assessor parcel numbers exist for each individual parcel. In Tennessee, there is a state comptroller parcel identification number, a GIS parcel number and a county assessor parcel number for each property. There are also numerous

instances throughout the country where parcel numbers do not even exist because other data elements such as owner name, lot and plat, etc. are used by local communities to catalogue properties. Although the parcel number provides no value to the flood zone determination process or for compliance, lenders and their service providers would be forced to implement costly research and quality assurance checks in order to validate that proper parcel numbers exist and are accurately captured on the Form. In addition, procedures would have to be adopted for handling occurrences of conflicting or non-existent data when they arise.

Most lenders use third party flood zone determination providers and mortgage servicing platforms, all of which employ sophisticated technologies and networks. It is our understanding that the major mortgage servicing systems, which capture the content of the flood zone determination, do not include a field to store the parcel number, requiring significant enhancements/modifications. Seemingly simple and straightforward changes to the Form will necessitate modifications to the various platforms, systems and interfaces utilized by the lending and determination industries. Ultimately, an unintended consequence implementing these changes would be increased closing costs for borrowers.

FEMA's justification for the focus on parcel number has been a reference to a statute in Dodd-Frank which amends the Home Mortgage Disclosure Act (HMDA) to potentially require lending institutions to include parcel numbers in HMDA reporting (Public Law 111-203, Section 1094, amending 12 U.S.C. 2803). Importantly, the Consumer Financial Protection Bureau (CFPB) *has not enacted these regulations* with respect to HMDA and the language of the regulations defers to CFPB's future determination of the appropriateness of the parcel number in this reporting. Therefore, to require lending institutions to make significant and costly changes to systems and operational procedures to attempt to conform to uncertain changes in HMDA compliance requirements is an unreasonable burden with potentially detrimental impact on lending institutions and ultimately the consumer. Further, these reporting requirements are separate and unrelated to compliance with the Flood Disaster Protection Act.

- **Change Description (Section II.B. Box 3) to “LOMA/LOMR Date”**

The official instructions should be consistent with the contents of the Form and, in this case, the instructions reference the use of the LOMA/LOMR Date as opposed to the Case Number. Prior respondents observed that there was no known benefit to lending institutions and to the flood zone determination process to require the Case Number on the Form. On the other hand, the Date provides value for the lending institution by permitting the lender to immediately confirm that a referenced LOMA/LOMR post-dates the referenced Flood Insurance Rate Map; therefore, that LOMA/LOMR can be relied upon for compliance purposes. Since there is no known value justifying the additional burden that would result from this change to the Form, amending the Form to be consistent with the official instructions would alleviate the issue.

- **Work with Federal Regulatory Agencies to ensure clear communication is made with respect to the timing of the required use of the new version of the Form**

A change of this magnitude needs to be clearly communicated by those with governing authority to those that must comply with the new requirements. NFDA member companies have already received numerous inquiries from lending institutions about when use of the new version of the Form is required for compliance purposes. A single, ambiguous statement on FEMA's website regarding the “six-month adjustment period” is not sufficient direction for these institutions. We urge the Federal Agencies to provide clear and meaningful direction as has been done in the past, including the actual date on which the new version of the Form (which will hopefully include the minor modifications requested herein) is required for use.

The NFDA appreciates FEMA's commitment, as set forth in your June 6, 2012 email to all respondents, to work more openly with affected stakeholders in the coming years on issues related to the Form. Our interest is to see improvements to the Form that will continue to facilitate lenders' compliance efforts in determining mandatory purchase requirements for flood insurance. To that end, the NFDA requests FEMA's serious consideration of these suggested modifications and to assure that the official instructions correspond to the Form. I look forward to discussing this further should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl A. Small".

Cheryl A. Small, President  
National Flood Determination Association

Cc: Mortgage Bankers Association, American Bankers Association, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Federal Reserve Board, National Credit Union Administration, Farm Credit Administration