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## State Emergency Management Agency (SEMA) Floodplain Management Section

### Issue 4- FY 2023 - Floodplain Management E-Bulletin

It's the 4th quarter of Fiscal Year 2023, and time for the year's last FY23 *Missouri Floodplain Management E-Bulletin!*

#### \*Substantial Damage Evaluation Responsibilities After an Event\*

There has been a plethora of severe weather in Missouri this spring and a lot of associated damage. As a reminder, Title 44 of the Code of Federal Regulations 59.1 defines "substantial damage" as: "Damage of **any** origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred."

As a requirement for participation in the National Flood Insurance Program (NFIP), communities must adopt a local floodplain ordinance meeting minimum NFIP criteria. These ordinances stipulate that after a disaster all residential and non-residential structures located within the Special Flood Hazard Area (SFHA) **must** be evaluated for substantial damage. Substantial damage evaluations apply to all types of disasters, including wind and tornados.

The local Floodplain Administrator is usually responsible for complying with the requirements of the local floodplain ordinance and evaluating reconstruction after a disaster. When structures are found to be substantially damaged, they **must** be brought into compliance with the community's floodplain management ordinance.

In Missouri, substantially damaged residential buildings must either be raised to the base

elevation (BFE) or above, or they must be relocated outside the 1% annual floodplain or Special Flood Hazard Area (SFHA). In addition, non-residential structures can be dry-floodproofed to meet the conditions of the local floodplain ordinance.

FEMA developed an excellent software tool – SDE 3.0 – to assist local officials. This is a formalized, organized approach for making these determinations; in addition, it is a FEMA-accepted method for determining substantial damage and substantial improvement. With an SDE process in place, communities can complete their NFIP requirements more quickly, allowing citizens to start reconstruction sooner. SEMA Floodplain staff has developed a workshop teaching all aspects of FEMA's SDE 3.0 program. Please visit our website for updated workshop venues and dates, and watch for emails advertising SDE 3.0 workshops.

The next scheduled SDE 3.0 training opportunity is: **October 9, 2024**, in Stockton, Mo. Register here: [mfsma.org/meetinginfo.php](https://mfsma.org/meetinginfo.php) Please look for email announcements for other SDE 3.0 training opportunities in 2024.



The Endangered Species Act (ESA) is an important piece of environmental legislation aiming to conserve at-risk species and prevent them from extinction. Protecting species' habitat is important to both their survival and to healthy, functioning ecosystems that provide ecosystem services for people, too. Healthy forests, grasslands, floodplains, and other ecosystems not only help conserve endangered species, but help keep our air and water clean, provide habitat for pollinators, and lessen flood risk.

To address the requirement that federal agencies help conserve species and their habitats, FEMA has focused on building awareness, helping communities with identification of threatened and endangered species and their habitat, and providing incentives for communities to prioritize conservation of threatened and endangered species. Communities that participate in the National Flood Insurance Program (NFIP) are required to ensure that for each development project that all other state and federal permits have been obtained, which includes requirements related to the Endangered Species Act (44 CFR 60.3(a)(2)).

One of the best things that floodplain managers can do is to get familiar with the endangered species that live in or potentially live in their jurisdictions. The best way to do that is to use the United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) website. Visit: <https://ipac.ecosphere.fws.gov/>. This tool can be used by communities for general awareness of species present, but also by developers for compliance on a project-specific level. It is designed to evaluate potential concerns in a project early in the planning stages, thereby saving time, money, and avoiding delays.

<https://ipac.ecosphere.fws.gov/> Start by clicking on the button that says, "Get Started".

Step 1 is to enter in a project location.

Step 2 is to draw a polygon around your community (for familiarization purposes) or project area (for project review purposes).

Step 3 is to verify your sketch is accurate.

The threatened and endangered species list will now come up on the screen, as well as a variety of other protected resources under USFWS such as migratory birds, wildlife refuges, and other information. There is a printing icon in the upper left corner. The list of threatened and endangered species will include species that have their ranges or their critical habitat in the area that was drawn. Species ranges are often much larger than where you might find the animal or plant, but there is suitable habitat within that range. A developer or project proponent should use IPaC on any project they undertake and in doing so, they will dig deeper into the details of each species for their project.

The IPaC tool will only show federally listed threatened and endangered species. The State of Missouri also maintains endangered species legislation that protects these species. The state Endangered Species Act and the Missouri Wildlife Code protect state listed species. [The Missouri Department of Conservation](#) is the administrative, regulatory, and enforcement agency for state sensitive species. The state of also tracks the status of approximately 1,036 plant and animal species that are considered rare in the state. Of these, approximately 45 are listed as state endangered.

Pallid Sturgeon  
*Scaphirhynchus albus*



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FEMA requires ESA compliance documentation for Conditional Letters of Map Revision based on fill (CLOMR-F) and Conditional Letters of Map Revision (CLOMR). The MT-1 form is used for both a Letter of Map Revision Based on Fill (LOMR-F) to amend a flood map for fill being placed in a floodplain and to receive a conditional approval for a Conditional Letter of Map Revision Based on Fill (CLOMR-F). The MT-2 form is used to receive a conditional approval for a Conditional Letter of Map Revision (CLOMR). A CLOMR-F or CLOMR should be completed before bringing in any fill or breaking ground, respectively, and a LOMR-F/LOMR filed on completion of the project.

This [FEMA guidance document](#) outlines the compliance requirements with the ESA, in particular that the property owner has prepared all ESA compliance documentation before submitting a CLOMR-F or a CLOMR. When developers or project proponents prepare a CLOMR-F or CLOMR, they will provide floodplain administrators with a Community Acknowledgement Form (for MT-1 CLOMR-F applications) or an Overview and Concurrence Form (for MT-2 CLOMR applications). Signing the applicable form will require communities to ensure that the applicant has included ESA compliance documentation, as well as all other requirements for your community's permits. Being familiar with the species in your community will help you understand if applicants have adequately considered the species present.

Floodplain managers need to be conscientious of the ESA when issuing permits and signing off on FEMA forms. Be sure to check out United States Fish and Wildlife Service's (USFWS's) IPaC system to know which species may be in your community. You can find more resources about conservation and floodplain management at this link: <https://www.fema.gov/floodplain-management/wildlife-conservation>. Should you have questions about FEMA's requirements related to the ESA then please contact Martin Koch, FEMA Region 7, Supervisory Emergency Management Specialist at [martin.koch@fema.dhs.gov](mailto:martin.koch@fema.dhs.gov).



By Chad Berginnis, CFM—Director, ASFPM

In late April, the Department of Housing and Urban Development (HUD) announced a [final rule](#) in the Federal Register to implement the Federal Flood Risk Management Standard (FFRMS). For those who are unfamiliar with the scope of HUD's responsibilities, they are the federal agency responsible for national policy and programs that address America's housing needs, improve and develop the nation's communities, and enforce fair housing laws. HUD's programs touch virtually every community: from rental assistance through Section 8 vouchers to mortgage finance through the Federal Housing Administration (FHA), and to community development assistance through Community Development Block Grants (CDBG). Because HUD's fingerprints are everywhere, their final rule to implement the FFRMS may be one of the most significant among all federal agencies. To ensure its success, all of us are going to have to do our part and we don't have much time to spare — much of the rule becomes effective June 24, 2024 while other aspects of it take effect January 1, 2025.

While this rule has many significant features, I want to highlight three of the most important changes impacting us as floodplain managers:

1. the preference for defining the FFRMS floodplain by the Climate Informed Science Approach;
2. the new requirement in the Minimum Property Standards, and
3. the new flood Notification of Flood Hazard requirements.

I urge all of you to ponder these new provisions and how your communities can best help address them.

#### **CISA First**

The new rule establishes a preference for (but does not yet require) use of a Climate Informed Science Approach (CISA) to determine the floodplain of concern for HUD-funded projects, when possible. The floodplain identified using CISA provides the elevation and flood hazard area that results from using a climate-informed science approach based on best-available, actionable hydrologic and hydraulic data. CISA maps can provide more accurate and forward-looking information than existing Flood Insurance Rate Maps (FIRMs), many of which have not been updated in years or even decades. When CISA maps are not available for a particular HUD-funded project, the rule provides multiple alternate approaches to identify the FFRMS floodplain, including adding freeboard to the 100-year flood elevation Freeboard Value Approach (FVA) or using the 500-year flood elevation. This means with or without available CISA mapping, there will be a predictable and practicable option for compliance with the rule that still promotes resilience.

What I find important about the rule is that when a community has developed CISA data — and we are now entering an era where some communities are doing that — there is a process whereby HUD can recognize and utilize that best locally available data for CISA. Given that HUD has not yet endorsed any Federal CISA data, this will occur gradually over time. In the meantime, there is a [Federal Flood Standard Support Tool \(FFSST\)](#) to help with determining CISA, FVA, or 500-year floodplain for a site.

#### **Minimum Property Standards – New 2 Foot Freeboard Requirement**

Perhaps one of the most widespread of all HUD's programs is the availability of Federal Housing Administration (FHA) loans. An FHA loan is a mortgage that is insured by the FHA. The FHA doesn't directly lend money, but instead provides mortgage insurance to private lenders who are approved by the FHA. Just how important are FHA loans nationally? According to FHA's Fiscal Year 2023 report, FHA endorsed 580,000 home purchase mortgages through its forward mortgage program, and over 82 percent went to first-time homebuyers. The original mortgage amount of all endorsed forward mortgages, including both purchase and refinance mortgages, in FY 2023 totaled \$208 billion.

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FHA financing represents a significant source of financing for first-time homebuyers and is therefore important in nearly all communities. What happens then, if new housing doesn't meet HUD's minimum property standards? It doesn't qualify for a FHA mortgage! Beginning on January 1, 2025, the new minimum property standards will kick in and require that, in order to qualify for a HUD mortgage (and this also applies to low-rent public housing programs), the lowest floor must be two feet above the base flood elevation (2-foot freeboard requirement), if the home is in an identified Special Flood Hazard Area (SFHAs).

In my opinion, any community that doesn't have a 2-foot freeboard in their ordinance will be risking cutting off a vital source of mortgage funding because it is impossible to pre-identify which homes might have a buyer that will need FHA financing. Again, this will only apply to new construction and only in mapped SFHA's. Given that it takes time to adopt changes to local floodplain management codes, I urge you to consider adopting at least a 2-foot freeboard if your community hasn't already done so then you will not have to worry which homes meet the new Minimum Property Standard requirement.

### **Notification of Flood Hazard Requirements**

HUD's final rule includes several strong and important notification requirements, such as the requirement that HUD (or HUD's designee) or the responsible entity must ensure that any party participating in a financial transaction for a property located in a floodplain and any current or prospective tenant is notified of the hazards of the floodplain location is retained. In addition, [24 CFR 55.4](#) defines the notification requirements for property owners, buyers, developers, and renters and identifies specific hazards and information that must be included in these notices based on the interests of these parties.

The required information for owners, buyers, and developers includes the requirement or option to obtain flood insurance, the approximate elevation of the FFRMS floodplain, proximity of the site to flood-related infrastructure including dams and levees, ingress and egress or evacuation routes, disclosure of information on flood insurance claims filed on the property, and other relevant information such as available emergency notification resources. For HUD-assisted, HUD-acquired, and HUD-insured rental properties, new and renewal leases are required to include acknowledgements signed by residents indicating that they have been advised that the property is in a floodplain and flood insurance is available for their personal property. Renters must also be informed of the location of ingress and egress or evacuation routes, available emergency notification resources, and emergency procedures for residents in the event of flooding. HUD encourages a proactive and systematic approach to notification requirements for properties in floodplains to ensure that prospective buyers and renters are made aware of potential flood risk so that they can make risk-informed decisions.

The way I translate the proactive and systematic approach is that all of us in the floodplain management community need to think about how to provide this information. For example, how would somebody find the proximity of the site to flood-related infrastructure, such as dams and levees? State, regional and local authorities typically maintain that information; are there systems available to provide this information to owners, buyers, and developers? Ingress and egress or evacuation routes, emergency procedures for residents and emergency notification contacts are typically maintained by local authorities — again, hypothetically how would or could folks easily get that information? In terms of flood claims filed on the property, while FEMA can provide that for existing property owners, are FEMA's systems ready to handle a large number of requests in a timely manner? The point is that the new notification requirements are going to be a bit of a lift on everyone's part and local floodplain managers in particular need to be aware of the new pieces of data that they need to be providing. HUD is currently developing further guidance on these notification requirements.

As flood disaster costs rise at an unsustainable rate, HUD's rule for implementing the FFRMS is both strong and necessary. It is also equitable. One thing I particularly appreciate about the rule is that poor and disadvantaged homeowners and renters are expected to have the same level of flood protection as someone who has the means to afford it. I applaud the vision and the perseverance of HUD to get the final rule completed, and [ASFPM is committed to working with HUD](#) through this implementation period. It is critical that floodplain managers in our states and communities are aware of not only these three items highlighted in my column, but the many other elements of the new FFRMS rule so together we can reduce flood losses in the nation.

Article copied from ASFPM's *News and Views* dated, June 15, 2024.

From the Director's Desk by Chad Berginnis, CFM.

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The Mission Statement of the Floodplain Management Section:  
The mission of Missouri's Comprehensive Floodplain Management Program is to make the state and its citizens less vulnerable to the impact of flooding through the effective administration of statewide floodplain management, and to provide local communities with the tools and resources for managing, assessing, and planning for development in flood prone areas; to save lives; and to protect property.



#### Other Contact Information

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## Welcome

The Floodplain Management Section is excited to announce the addition of the communities of Iatan (Platte County) and Norwood (Wright County) to the Regular Phase of the NFIP in 2024. The State of Missouri now has 690 NFIP-participating communities! Welcome, and please let the State Floodplain Management Section help with any questions that you have regarding the NFIP!



**"Breaking the Build, Flood, Rebuild Cycle"**

October 23 - October 25, 2024  
More Information to be Provided

**Margaritaville Lake Resort**  
Formerly Known As Tan-Tar-A Resort

<https://www.margaritavilleresortlakeoftheozarks.com/>

Register for the MfSMA conference  
**Here!**