

ALBANY CITY COUNCIL AGENDA

Monday, November 18, 2024
4:00 p.m.

Council Chambers, City Hall
333 Broadalbin Street SW

Watch on YouTube: <https://www.youtube.com/user/cityofalbany>

Please help us get Albany's work done.

Be respectful and refer to the rules of conduct posted by the main door to the Chambers and on the website.

1. Call to order and roll call
2. Business from the public
3. FEMA's Pre-implementation compliance measures– Jennifer Cepello. [Pages 2-27]
Direction
4. Airport economic and fiscal analysis request for proposals – Chris Bailey. [Page 28]
Discussion
5. Business from the council
6. City manager report
7. Adjournment

This meeting is accessible to the public via video connection. The location for in-person attendance is accessible to people with disabilities. If you have a disability that requires accommodation, please notify city staff at least 48 hours in advance of the meeting at: cityclerk@albanyoregon.gov.

Testimony provided at the meeting is part of the public record. Meetings are recorded, capturing both in-person and virtual participation, and are posted on the City website.



MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager
Matthew Ruetters, Community Development Director 

FROM: Jennifer Cepello, Planner III 

DATE: November 8, 2024, for the November 18, 2024, City Council Work Session

SUBJECT: Federal Emergency Management Agency's Pre-Implementation Compliance Measures

Action Requested:

Staff requests that the city council discuss and provide direction about which of the three Pre-Implementation Compliance Measures options the City should pursue.

Background:

On July 15, 2024, the City of Albany received a letter from the Federal Emergency Management Agency (FEMA) announcing the start of the Pre-Implementation Compliance Measures (PICM) for National Flood Insurance Program participating communities in Oregon. That letter states that local jurisdictions within the National Flood Insurance Program are required to have "Pre-Implementation Compliance Measures" in place no later than December 1, 2024. The purpose of these PICMs, according to FEMA, are to "ensure the continued existence of threatened or endangered species in compliance with the Endangered Species Act".

National Flood Insurance Program participating communities in Oregon must select one of the PICM pathways laid out by FEMA. The three options are:

1. Prohibit all new development within the Special Flood Hazard Area.
2. Adopt a model ordinance that incorporates the requirements of the Endangered Species Act into the City's floodplain code. (October 21, 2024, council work session agenda packet pages 8-54)
3. Require applicants on a permit-by-permit basis to prepare a Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve "no net loss". (October 21, 2024, council work session agenda packet pages 55-101).

The selected PICM must be in place until the release and implementation of the Final Implementation Plan, which is anticipated in 2027. If a PICM pathway is not chosen by the December 1, 2024, deadline, and FEMA is notified of their selection, they will default to a permit-by-permit basis (Option 3). In addition, National Flood Insurance Program communities are required to report to FEMA on their implementation of interim measures beginning on January 31, 2025.

The City of Albany currently has approximately 2,184 acres of land located within the Special Flood Hazard Area (100-year floodplain). Of these 2,184 acres 1,421 acres are in residentially zoned land; 295 acres are located within commercial or industrial zoned land; with the remaining 763 acres located in the open space zone. There are currently 411 buildings located within the Special Flood Hazard Area with a total of \$582,710,000 in NFIP coverage within the city limits of Albany.

More information on the Special Flood Hazard Area, can be found in FEMA's Guidance for Flood Risk Analysis and Mapping Guidance Document No. 99., which is available through FEMA's website at [fema.gov](https://www.fema.gov).

[albanyoregon.gov](https://www.albanyoregon.gov)



November 8, 2024, for the November 18, 2024, City Council Work Session

Additionally, the Oregon Department of Land Conservation and Development has issued a Frequently Asked Questions handout regarding the Pre-Implementation Compliance Measures which is included as Attachment 2.

Discussion:

Staff seeks council direction as to which of the three PICM options the council finds best fits the needs of the City of Albany community. Following this direction staff will inform FEMA which of the three PICM options the City will be implementing starting December 1, 2024. Based upon this decision staff will also begin preparing the required amendments to Albany's Floodplain Ordinance to ensure FEMA compliance by July 2025.

Based on research, which has included trainings, technical assistance seminars, coordination with other communities, and assessment of our community's properties within the floodplain that would be impacted by these regulations, staff recommends pursuing Option 3 the permit-by-permit habitat assessment choice.

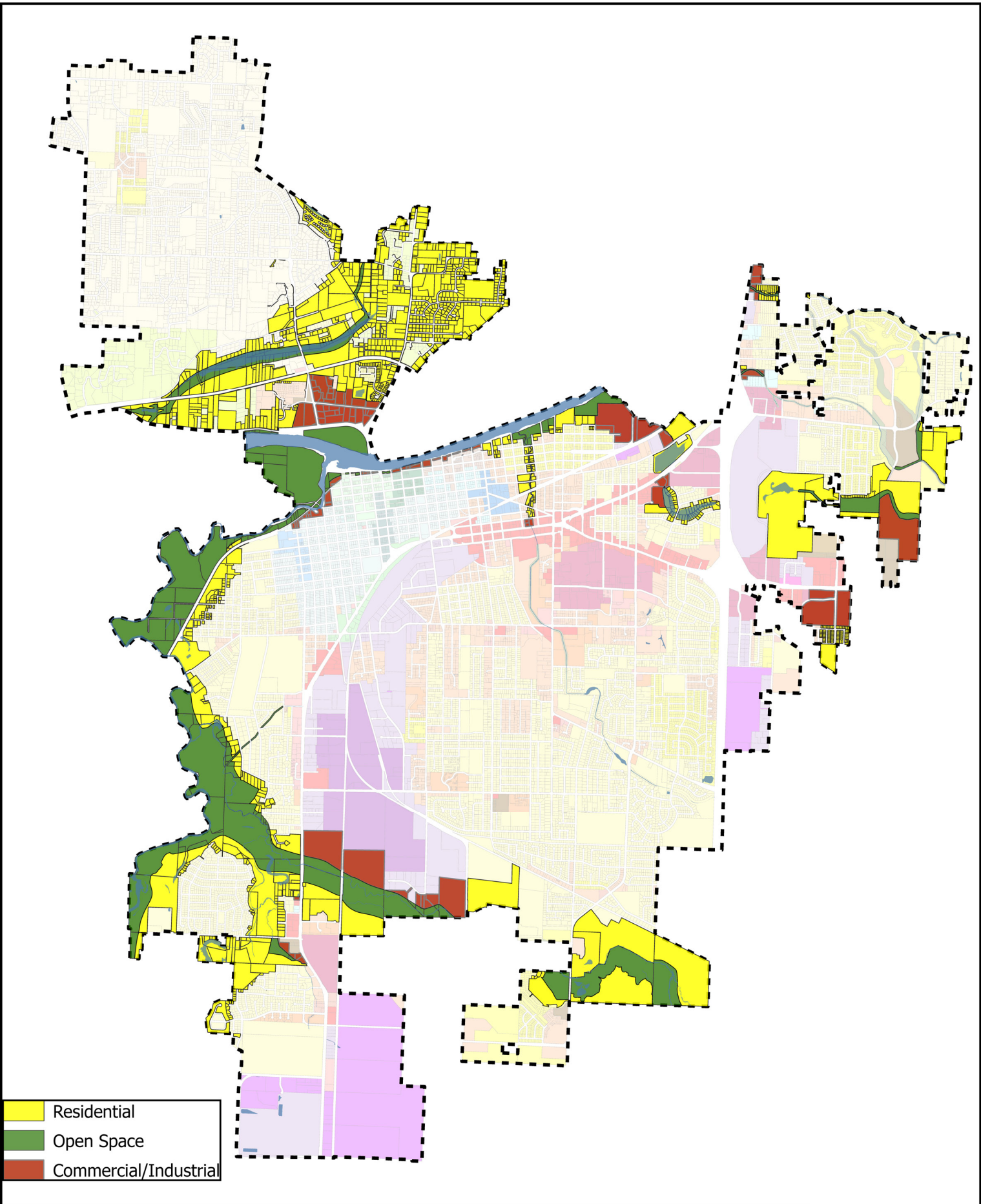
Budget Impact:

None at this time.

JC:km

Attachments: (5)

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- Residential
- Open Space
- Commercial/Industrial



Properties within the SFHA



Frequently Asked Questions about Pre-Implementation Compliance Measures

October 4, 2024

Disclaimer: This FAQ is general guidance based on the information available to DLCDC staff at this time. It is not a DLCDC decision. It is not legal advice for any specific situation. Cities and counties should consult their legal counsel for advice on specific decisions.

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What are “Pre-Implementation Compliance Measures”?

In July 2024, the Federal Emergency Management Agency (FEMA) sent a letter to cities and counties in Oregon instructing them to make short term changes to how the city or county regulates development

in flood hazard areas. FEMA describes these short-term actions as “pre-implementation” because they are occurring before FEMA fully implements long-term changes to the National Flood Insurance Program (NFIP) to comply with the Endangered Species Act.

What led up to PICM?

In 2009, environmental advocacy organizations sued the Federal Emergency Management Agency (FEMA) alleging that FEMA violated the Endangered Species Act by not consulting with National Marine Fisheries Services (NMFS) about how the National Flood Insurance Program (NFIP) could jeopardize threatened species. FEMA resolved the lawsuit by formally consulting with NMFS to review the impact of the NFIP. In April 2016, NMFS issued its [Biological Opinion](#) (BiOp) that concludes that the NFIP in Oregon jeopardizes the survival of several threatened species, including salmon, sturgeon, eulachon, and orcas. The BiOp contained a reasonable and prudent alternative (RPA) with recommendations from NMFS to FEMA on how to avoid jeopardizing the threatened species. In October 2021, FEMA issued a draft implementation plan on how to reduce the negative impacts of the NFIP on threatened species.

In 2023, FEMA started reviewing the draft implementation plan using a National Environmental Policy Act (NEPA) process, which is still underway. Under the NEPA process FEMA will analyze whether there are additional alternatives or changes to the 2021 draft implementation plan to consider.

In September 2023, environmental advocacy organizations filed a lawsuit alleging that FEMA has been too slow to implement the BiOp. Plaintiffs included the [Center for Biological Diversity](#), the [Northwest Environmental Defense Center](#), [Willamette Riverkeeper](#), and [The Conservation Angler](#). See also coverage in the [Oregonian](#).

In July 2024, FEMA announced a new program of pre-implementation compliance measures (PICM or short-term measures) for the BiOp, separate from the NEPA full implementation (long-term measures) process. FEMA hosted four [PICM webinars](#) in July and August, and is planning additional outreach to assist NFIP communities in the fall of 2024. Some of the PICM pathways are included in the 2016 BiOp under RPA, element 2.

FEMA now has two separate, but similar processes: NEPA evaluation of the full implementation plan, and interim action through PICM. FEMA’s webpage [“Endangered Species Act Integration in Oregon”](#) contains information about both processes, but does not clearly distinguish between the two processes.

What is the role of the Oregon Department of Land Conservation and Development in PICM?

FEMA and the state provide funds to the Oregon Department of Land Conservation and Development (DLCD) for staff to help cities and counties participate in the NFIP. DLCD floodplain staff do not set program policies and cannot make decisions on behalf of FEMA. As FEMA provides more information about what they are requiring through PICM, DLCD floodplain staff will try to explain the program to cities and counties.

Frequently Asked Questions about Pre-Implementation Compliance Measures

While the floodplain staff at DLCD have a coordinating role communicating with FEMA, cities and counties are always free to communicate directly with FEMA staff. In this role, DLCD staff provided feedback on the full implementation plan (long-term measures) through the NEPA process. DLCD staff provided information about how the land use planning system in Oregon would affect the full implementation plan. DLCD did not have an opportunity to play a similar role while FEMA developed PICM.

On September 26, 2024, Governor Tina Kotek sent a [letter to FEMA](#) expressing concerns about PICM, similar to concerns raised in a [letter from members of congress](#) in August. DLCD will work with FEMA to address the governor's concerns.

What does a city or county need to do now?

FEMA is requiring cities and counties to select one of three PICM short-term paths by December 1, 2024:

- Pathway 1: Adopt the [PICM model floodplain management ordinance](#) that considers impacts to fish habitat and requires mitigation to a no net loss standard.
- Pathway 2: Review individual development proposals and require permit-by-permit habitat mitigation to achieve no net loss using "Floodplain Habitat Assessment and Mitigation" guidance from FEMA.
- Pathway 3: Prohibit all new development in the floodplain.

FEMA is also requiring cities and counties to gather additional data on local floodplain permitting starting January 31, 2025, and submit an annual report to FEMA starting January 2026.

If a city or county does not choose a PICM path by December 1, 2024, then FEMA expects the city or county to use Pathway 2 for permit-by-permit habitat assessment and mitigation.

Once local planning staff review the FEMA documents ([PICM model ordinance](#) and [habitat assessment guidance](#)), planning staff may want to discuss the PICM paths with other internal local staff, and their local legal counsel. A starting point could be to determine how much developable land is within the Special Floodplain Hazard Area (SFHA). With that data to inform local decision making, staff might want to report to decision makers and the public explaining the situation and may find this FAQ useful as background. An informational work-session could be helpful to explore options for what may or may not work at the local level. DLCD staff ([regional representatives](#) and [flood hazards staff](#)) are available for technical assistance; however, many questions will need to go to FEMA. Use the dedicated email address: FEMA-R10-MIT-PICM@fema.dhs.gov.

Does Pathway 3 "Prohibit floodplain development" require a moratorium?

No. A city or county has at least two options for prohibiting development in the special flood hazard area: temporary moratorium or permanent rezoning.

Option A: Temporary Moratorium

[ORS 197.520 to 197.540](#) defines a process for a city or county to declare a moratorium to temporarily prevent all development in a specific area. Typically, a city or county would declare a moratorium where there are insufficient public facilities, which would not apply in this case. ORS 197.520(3) allows a different type of moratorium if a city or county demonstrates there is a compelling need based on the findings below:

For urban or urbanizable land:

- That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
- That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city or county are not unreasonably restricted by the adoption of the moratorium;
- Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
- That the city or county has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and
- That the city or county proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium.

For rural land:

- That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
- Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
- That the moratorium is sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium; and
- That the city or county proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.

Moratoriums are legally complicated. This description is only a summary of the law. A city or county should consult carefully with their legal counsel to determine whether and how a moratorium would work in their specific situation, and to review the applicable timelines for which a moratorium may be in place and circumstances for extending a moratorium.

Option B: Permanent Rezoning

A city or county could permanently rezone the land within the special flood hazard area to a zone that would not permit development. This would not be appropriate for all cities and counties, but could be appropriate if the area in the SFHA is relatively small, unlikely to develop, or publicly owned.

Is a “Measure 56 Notice” required for PICM short-term options?

Most likely yes, but cities and counties should consult with their legal counsel on how the notification requirements apply in the specific local circumstances.

Background on Measure 56 Notices

Cities and counties in Oregon are required to send a notice to landowners before “rezoning” property. This requirement was originally enacted through Ballot Measure 56 in 1998, and is codified in [Oregon Revised Statutes \(ORS\) 227.186](#) for cities and [ORS 215.503](#) for counties. The requirement uses a broad definition of rezoning that includes any change that “limits or prohibits land uses previously allowed.” DLCDC maintains a [webpage on the landowner notification requirement](#).

Pathway 1 – Model ordinance

Cities and counties staff should carefully review current zoning and development regulations for property within the SFHA. If properties are zoned for open space or conservation, then the [PICM model ordinance](#) might not further limit uses.

If properties are zoned for residential, commercial or industrial use, the [PICM model ordinance](#) would likely limit those uses, and the Measure 56 notification requirement could apply. Most local floodplain codes require owners to obtain a permit for development in the floodplain. Permit processing varies for each city or county. Oregon’s model floodplain Ordinance (version 2020) meets minimum NFIP standards. However, the updated [PICM model ordinance](#) contains new standards in section 6.0 (highlighted in yellow) which could limit currently allowed uses, in which case the Measure 56 notification requirement would apply.

Pathway 2 – Permit-by-permit habitat assessment and mitigation

Cities and counties should carefully review any existing requirements for habitat mitigation. Most cities and counties do not require mitigation for habitat impacts, so the city or county would be adopting a new ordinance to require assessment and mitigation for development in flood hazard areas. These new development regulations would most likely limit currently allowed uses, and thus the Measure 56 notification requirement would apply.

Pathway 3 – Prohibit floodplain development

If a city or county declares a temporary moratorium under ORS 197.520 to 197.540, then the Measure 56 notification requirements would likely apply because a moratorium would limit or prohibit uses that would otherwise be allowed.

If a city or county rezones land or amends development regulations to permanently prohibit development within the SFHA, then the city or county should carefully review the previous zoning and allowed uses for each parcel. If some properties were previously zoned for open space or conservation, then the prohibition on development is not likely to be a limitation on future use. If some properties are zoned for residential, commercial or industrial use, then the prohibition on development would limit those uses, and thus the Measure 56 notification requirement would apply.

A city or county may not want to completely prohibit all development in the floodplain and may want to think about explicitly adding in activities exempt from the no net loss standards as listed in section 6.3 of the [PICM Model Ordinance](#). Some of the exempt activities include normal maintenance of structures, street repairs, habitat restoration activities, routine agricultural practices, and normal maintenance of above ground utilities and would still require a local floodplain development permit. However, if a city or county wishes to include activities beyond those listed in section 6.3, then the city or county will likely need to adopt the model ordinance or require permit-by-permit habitat mitigation for the uses that are still allowed. It may be simpler to choose pathway 1 (model ordinance) or pathway 2 (permit-by-permit) instead. Cities and counties should communicate with FEMA about any exemptions.

Will the state waive legislative adoption requirements?

Each city or county has its own requirements for adopting an ordinance. The state has no authority to waive those requirements.

[ORS 197.610 through 197.625](#) requires cities and counties to submit notice to DLCDC 35 days before the first hearing to adopt a change to a comprehensive plan or a land use regulation. The statute does not authorize DLCDC to waive this requirement. If it is not possible to send the notice 35 days prior to the hearing, cities and counties should send the notice as soon as possible. The notice can include a draft ordinance that will be revised before adoption. If a city or county does not provide notice 35 days prior to the hearing, this does not invalidate the ordinance. A party that did not appear before the local government in the proceedings would be allowed to appeal the ordinance.

DLCDC has no authority to waive the required Measure 56 notification to landowners that is described above.

What if a city or county cannot complete the ordinance process by December 1, 2024?

Start the process of evaluating the PICM pathways as soon as possible. Keep FEMA informed via their PICM inbox FEMA-R10-MIT-PICM@fema.dhs.gov regarding your PICM path and progress.

Send questions to FEMA early in the process to give them time to respond, and document when replies are received.

Communicate often to FEMA to update them on your status and expected adoption date.

Is the model ordinance clear & objective?

Background on Clear and Objective Standards

Oregon Revised Statutes [197A.400](#) requires cities and counties to:

“adopt and apply only clear and objective standards, conditions and procedures *regulating the development of housing*, including needed housing, on land within an urban growth boundary.”
[emphasis added.]

The legislature amended this statute to include areas within unincorporated communities and rural residential zones. The amendment takes effect on July 1, 2025.

Reviewing Model Ordinances

DLCD plans to review the existing [Oregon Model Flood Hazard Ordinance](#) to identify standards for residential development that may not be clear and objective. Over the past year, DLCD also reviewed an early draft of the model ordinance in the NEPA process for the full implementation of the BiOp. DLCD identified several aspects of that early draft model ordinance that may not be clear and objective and suggested that FEMA revise those aspects. DLCD has not yet determined whether the [PICM Model Ordinance](#) has only clear and objective standards.

What is changing for cities and counties for letters of map revision based on fill?

FEMA has temporarily suspended processing of applications for letters of map revision based on fill (LOMR-F) and conditional letters of map revision based on fill (CLOMR-F) as of **August 1, 2024**. FEMA is doing this to remove any perceived incentive to using fill and to avoid potentially negative effects on habitat for threatened species.

FEMA is not prohibiting fill in the SFHA, rather they are suspending the opportunity for owners or developers to revise floodplain maps to be released from mandatory flood insurance. Therefore, if fill is used for structure elevation and there is a federally backed mortgage on the property, flood insurance will still be required. Cities and counties should continue to enforce their existing floodplain ordinance on regulations regarding placement of fill in flood hazard areas.

Frequently Asked Questions about Pre-Implementation Compliance Measures

If an applicant asks for a community acknowledgement form (CAF) for a CLOMR-F or LOMR-F for a project not covered in the exceptions below, it would be wise to [contact FEMA](#) before signing.

Exceptions for L/CLOMR-F processing:

- Projects that are undergoing Section 7 consultation via an alternative federal nexus
- LOMR-Fs for already processed CLOMR-Fs
- CLOMRs required for habitat restoration projects

What are the Measure 49 implications to the PICM pathways?

Measure 49 could apply in some situations, but it is unlikely that a city or county would have to pay compensation to a landowner. Cities and counties should consult with their legal counsel to analyze their specific situation.

Background:

[Ballot Measure 49](#) was approved by Oregon voters in 2007. Its initial impact was on property owners who acquired their property before land use regulations were established in the 1970's and 1980's. In many cases, those owners were permitted to build up to three houses, even though the current zoning would not allow new houses.

Measure 49 also applies to future changes in land use regulations. Those provisions are codified in [ORS 195.300 to 195.336](#). If a state or local government enacts a land use regulation that restricts a residential use and reduces the fair market value of a property, then the owner can apply for just compensation. The compensation can be monetary, or a waiver to allow the owner to use the property without applying the new land use regulation. This requirement does not apply if the new regulation is for the protection of public health and safety.

Pathway 1 – Model ordinance

If a property owner applied for just compensation as a result of a city or county adopting the PICM model ordinance, the city or county would process the claim as provided in ORS 195.300 through 314. This includes evaluating the claim to determine whether it is valid, and then deciding whether to waive the regulation or pay monetary compensation.

First, determine whether the claimant owned the property before the city or county adopted the new regulations in the model ordinance.

Next determine whether the new regulations restrict the use of the property for single-family dwellings. The statute does not include a specific definition of “restrict” in this context. If the new ordinance has the effect of completely prohibiting residential use, then it clearly restricts the use. If the new ordinance allows single-family dwellings, but places design standards or conditions of development, these likely do not restrict the use.

Frequently Asked Questions about Pre-Implementation Compliance Measures

Next, determine whether the regulations “restrict or prohibit activities for the protection of public health and safety” as provided in ORS 195.305(3)(b). Many aspects of regulating floodplains are based on safety; however, some of the regulations in the [PICM model ordinance](#) are based on improving fish habitat. This could result in complicated analysis to determine whether the habitat requirements restrict development beyond the restriction already created by regulations based on safety.

Next, review the property appraisals submitted by the claimant to determine whether the property value was actually reduced. Property in a flood hazard area may already have a low value. The property may still have value for agricultural use which would offset the loss due to the regulation.

If a property owner has a valid claim, then the city or county would decide to pay monetary compensation or to waive some regulations. The city or county is not required to waive all regulations, only “to the extent necessary to offset the reduction in the fair market value of the property” ORS 195.310(6)(b). The city or county could still apply regulations based on safety, and could still apply regulations that existed prior to adopting the [PICM model ordinance](#).

Pathway 2 – Permit-by-permit habitat assessment and mitigation

The results would be similar to pathway 1. In most cases the habitat mitigation requirement would not prevent development, and the owner would likely not be entitled to just compensation. If the habitat mitigation requirements did prevent development, then the owner could apply for just compensation. The city or county would use the steps described above to determine whether it is a valid claim, and decide to waive some of the requirements, or pay monetary compensation.

Pathway 3 – Prohibit floodplain development

A temporary moratorium would likely not lead to a claim for just compensation because it is not a new land use regulation. Also, a temporary moratorium is unlikely to significantly affect fair market value because potential buyers know that the moratorium will end.

Rezoning to prohibit all development within the SFHA would likely be a basis for a claim for just compensation, especially for a property entirely within the SFHA. If a property includes area inside and outside the SFHA, and the owner could still develop the same number of dwellings in a different location, then the owner would likely not be able to make a claim for just compensation.

The city or county would use the steps described above to determine whether it is a valid claim, and decide to waive some of the requirements, or pay monetary compensation.

Where can I find additional information or ask questions about PICM?

FEMA has a webpage for [Endangered Species Act Integration in Oregon](#). Email questions to the PICM email address: FEMA-R10-MIT-PICM@fema.dhs.gov.

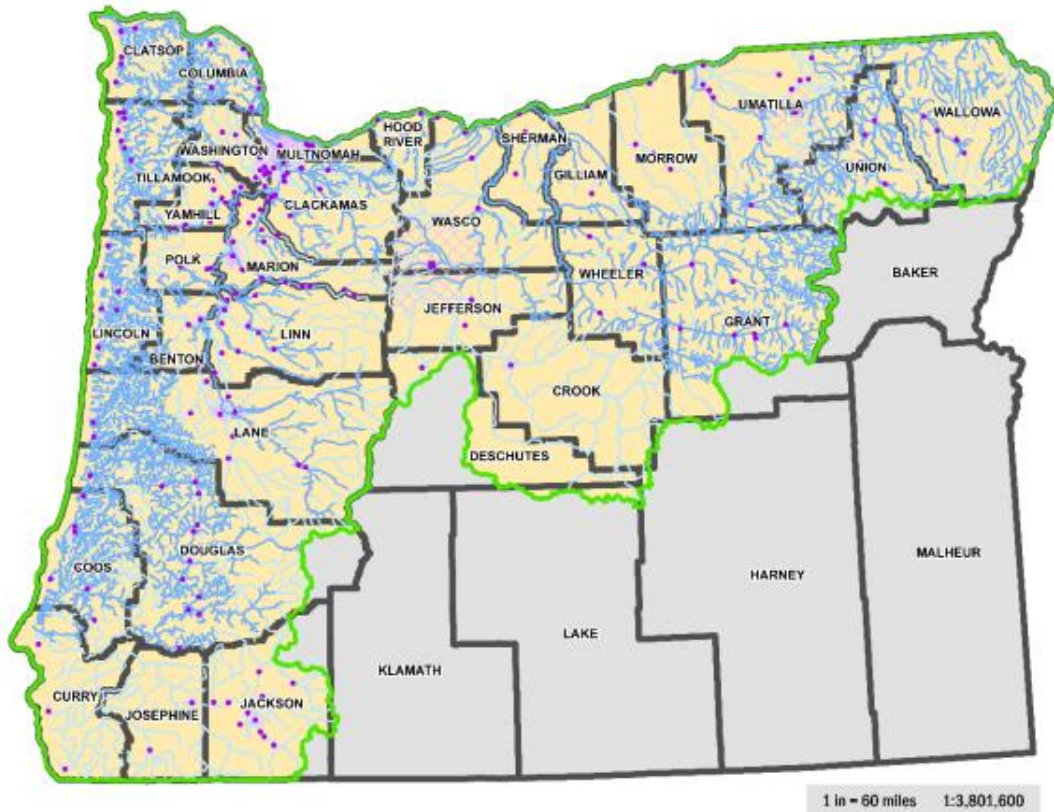
While DLCD staff are not responsible for PICM implementation, we are available to offer technical assistance. Email or call Oregon’s NFIP Coordinator at DLCD, Deanna Wright, deanna.wright@dlcd.oregon.gov, 971-718-7473.

What if a city or county received a PICM letter in error, or did not receive a PICM letter?

Staff may contact FEMA’s PICM inbox at: FEMA-R10-MIT-PICM@fema.dhs.gov to receive the letter, or you may contact DLCD staff. FEMA staff sent the email announcements to the city or county floodplain staff and the letter was mailed to each individual city or county chief elected officer. If you believe your community is outside of the BiOp action area (map instructions below), but you received a PICM letter, please contact FEMA PICM inbox for verification.

What area does the BiOp cover?

Below is a snapshot image of the Oregon NFIP BiOp Action Area:



OREGON NFIP BIOP ACTION AREA

2021.09.28

The BiOp is applicable in Special Flood Hazard Areas (SFHA) within the mapped salmon recovery domains for Oregon communities that participate in the NFIP. The BiOp covers approximately 90 percent of participating Oregon NFIP communities but does not apply to five counties.

[NOAA Fisheries GIS mapping application tool](#)

FEMA has published [directions](#) on how to determine if a proposed development or project area is within the BiOp area.

Oregon National Flood Insurance Program Endangered Species Act Integration

Pre-Implementation Compliance Measure Mitigation

Why is mitigation required?

Unlike ESA implementation in the Puget Sound of Washington, the 2016 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp) for Oregon allows for adverse effects to occur in the Special Flood Hazard Area (SFHA), as long as they result in a no net loss of floodplain functions. No Net Loss allows for mitigation and minimization of development and development-related impacts to occur in the SFHA, instead of just avoidance.

Under No Net Loss, development actions can occur as long as adverse actions are mitigated so floodplain functions can still operate at the same capacity as before the development action happened. Compliance of No Net Loss standards is most commonly achieved through the use of mitigation ratios.

What are the floodplain functions?

NMFS, in the 2016 BiOp, has identified three floodplain functions that must be mitigated when developing in the SFHA to ensure ESA compliance:

- Floodplain Storage
- Water Quality
- Vegetation

To make mitigating for these three functions measurable, FEMA has identified proxies for each of the functions that translate to potential development actions occurring in the floodplain. These proxies include:

- Undeveloped Space (Floodplain Storage)
- Pervious Surface (Water Quality)
- Trees (Vegetation)

PICM mitigation requirements include compensation for the loss of undeveloped space, pervious surface, and the removal of trees on a development site.

Floodplain Function	Proxy (No Net loss of ...)	Mitigates Against
Floodplain Storage	Undeveloped Space	Developed Space
Water Quality	Pervious Surfaces	Impervious Surface
Vegetation	Trees	Trees Removed

Floodplain functions, proxies, and actions mitigated against

Undeveloped Space

Undeveloped space is defined as the volume of flood capacity and fish-accessible (the ability of a fish to access a space) and fish-egress-able (the ability of a fish to exit a space) habitat from the existing ground to the Base Flood Elevation (BFE) that is undeveloped.

Any form of development that reduces this flood storage volume and fish accessible/egress-able habitat must be mitigated to achieve no net loss. Examples of this development include, but are not limited to:

- Addition of fill
- Structures
- Concrete structures (vaults or tanks)
- Pilings

Mitigation is required for the volumetric space that occupies the area between the existing ground and BFE. Proper mitigation includes creating an acceptable amount of undeveloped space between the existing ground and BFE as determined by the mitigation ratios.

Fish accessibility and egress-ability is a key component of floodplain storage, as it ensures we are maintaining habitat dynamics for ESA-listed species. Mitigating with ratios for undeveloped space will ensure you are also accounting for fish accessibility and egress-ability.

Pervious and Impervious Surfaces

Pervious surfaces are surfaces that can be penetrated by water and help regulate the rate of surface water runoff. Impervious surfaces are the opposite. They are surfaces that cannot be penetrated by water and thereby increase surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Impervious surfaces also heat up water as it travels to the waterbody and increase the overall temperature of the waterway. Additionally, impervious surfaces carry pollutants into the waterbody that would have otherwise been filtered out by pervious surfaces.

In PICM, there are three options to mitigate against the addition of impervious surfaces:

- A replacement of the equivalent amount of area where impervious surfaces were added with pervious surfaces;
- Development actions use documented low impact development or green infrastructure practices to infiltrate and treat stormwater produced by the new impervious surface; or
- When the above two methods are not feasible, require professional stormwater retention to ensure no increase in peak volume or flow and proper treatment to minimize pollutant loading.

Trees

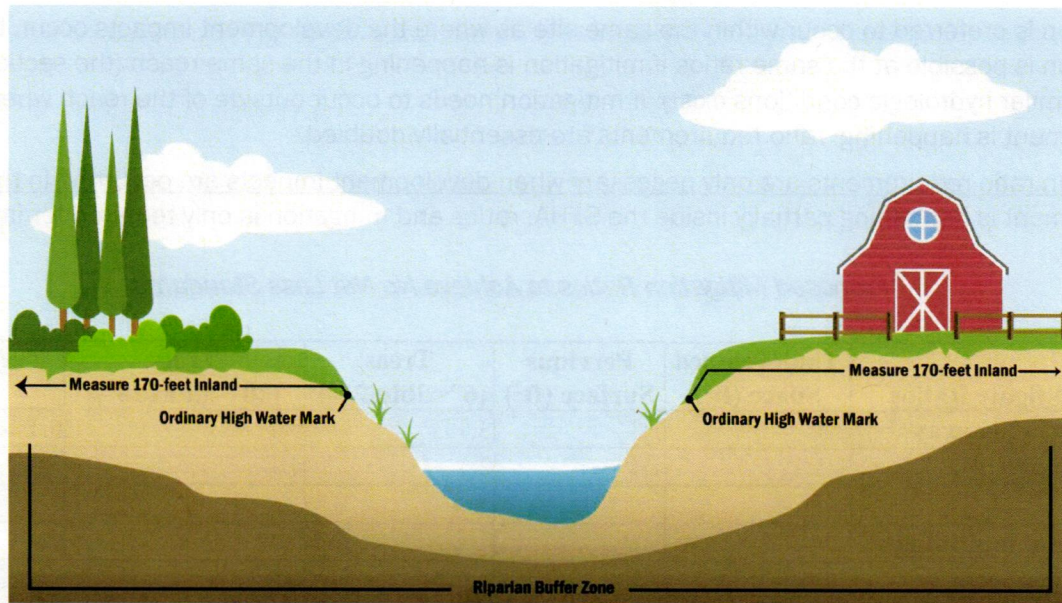
Trees play a vital role in the ecosystem and habitat of salmon. They stabilize banks against erosion, provide shade which regulates temperature for the waterbody, and creates habitat that attracts insects and other vital food sources. Under PICM, each tree over 6" diameter breast height (dbh) that is removed in the SFHA, must be replaced as identified by ratios. As larger trees provide a greater role in ecosystem services, more trees are required to replace them.

Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area. Replacement trees are assumed to be saplings and younger trees.

The RBZ and Me

The Riparian Buffer Zone (RBZ) is an area of land bordering rivers, streams, and other water bodies that provides an outsized role in supporting floodplain functions that affect ESA-listed species and essential fish habitat (EFH). The RBZ serves as important habitat to fish during flooding events, providing refuge from high velocity flows in the floodway. Vegetation attracts insects and other vital food sources, filters sediment and pollutants from runoff, and moderates water temperature through the shade it provides, and stabilizes eroding banks.

Under PICM, FEMA has established a 170-foot RBZ for use in the NFIP-ESA integration area. This 170-foot standard is measured from the ordinary high-water mark of a fresh waterbody, or from the mean higher-high water line of a marine shoreline or tidally influenced river reach. This distance generally equates to 80% of the maximum potential tree height of common tree species in the implementation area. The RBZ does not extend beyond the SFHA, meaning that the RBZ ends where the SFHA ends, if it is less than 170 feet. Communities, otherwise, cannot reduce the 170-foot RBZ boundary during PICM.



Measuring the Riparian Buffer Zone

The RBZ has additional requirements on top of achieving No Net Loss standards due to its outsized role in the floodplain functions. **The RBZ does not ban development.** When developing, the RBZ requires a beneficial gain standard in addition to No Net Loss to provide additional benefits with no negative components to ESA-listed species and essential fish habitats. The beneficial gain standard is as follows:

- An area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation.

Beneficial gain is required for development in the RBZ, with the following exceptions:

- Habitat restoration activities,
- Activities considered exempt from No Net Loss,
- Functionally dependent uses: A use which cannot perform its intended purpose unless it is located or carried out in proximity to water. The term includes:
 - Docking and port facilities that are necessary for the loading and unloading of cargo or passengers; and
 - Ship building and ship repair facilities.
 - Functionally dependent uses do not include long-term storage, related manufacturing facilities, or ancillary facilities such as restrooms.

Understanding the Mitigation Ratio Table

Mitigation ratios are provided in PICM to ensure that permitted development meets the No Net Loss standards without having to do further analysis of mitigation options to comply with the ESA. For instance, the intrinsic habitat value of a single tree at 6" diameter breast height (dbh) in the Riparian Buffer Zone (RBZ) has already been factored into the ratios and requires a minimum of 3 trees to be planted to make up for the loss of habitat value at the development site.

Mitigation ratios to ensure ESA compliance vary based off location in the SFHA. The RBZ and Floodway play an outsized role in supporting floodplain functions, therefore higher ratios for mitigation are required to negate the impact of development. Development actions in the RBZ-fringe (the area outside of the RBZ but within the rest of the SFHA) have a lesser impact on floodplain functions and therefore lower ratios can negate any adverse impact.

Mitigation is preferred to occur within the same site as where the development impacts occur, but offsite mitigation is possible at the same ratios if mitigation is happening in the same reach (the section of waterway where similar hydrologic conditions exist). If mitigation needs to occur outside of the reach where development is happening, ratio requirements are essentially doubled.

Mitigation ratio requirements are only necessary when development impacts are occurring in the SFHA. If development is happening partially inside the SFHA, ratios and mitigation is only required for impacts within the area.

Proposed Mitigation Ratios to Achieve No Net Loss Standards

Basic Mitigate Ratios	Undeveloped Space (ft³)	Pervious Surface (ft²)	Trees (6" < dbh ≤ 20")	Trees (20" < dbh ≤ 39")	Trees (39" < dbh)
RBZ and Floodway	2:1	1:1	3:1	5:1	6:1
RBZ-Fringe	1.5:1	1:1	2:1	4:1	5:1
Mitigation multipliers					
Mitigation onsite to Mitigation offsite, same reach	100%	100%	100%	100%	100%
Mitigation onsite to Mitigation offsite, different reach, same watershed (5th)	200%	200%	200%	200%	200%

Do communities have to mitigate for each floodplain function, or do they choose only one of the functions to mitigate?

Communities must mitigate for each impact to the floodplain function.

Can a community use one action to mitigate for multiple functions?

Communities would need to ensure that each floodplain function is properly mitigated. In some instances, one mitigation action can count towards mitigation of more than one floodplain function. For example, removing a 200 ft² structure could count towards both flood storage and water quality mitigation if the action is creating both undeveloped space and pervious surface.

Who is responsible for measuring the RBZ?

Communities are responsible for identifying the RBZ. FEMA will not identify them on Flood Insurance Rate Maps (FIRM).

Why do communities have to ensure ESA compliance in SFHAs that provide no fish-accessibility?

Even though there may not be essential fish habitat in an SFHA, development can still create indirect or cumulative impacts that have an adverse effect on ESA-listed species and habitat downstream.

Learn more and participate

Visit www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration to access the model ordinance, habitat assessment guide, and read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov

Oregon National Flood Insurance Program Endangered Species Act Integration

Floodplain Functions Overview

FEMA is assisting communities with coming changes to the National Flood Insurance Program (NFIP) in Oregon. Changes are needed to protect the habitat of several species of fish and the Southern Resident killer whales to comply with the Endangered Species Act (ESA).

FEMA outlined these changes in the draft 2021 NFIP-ESA Implementation Plan, which FEMA will fully implement in 2027. Until then, communities need to begin implementing interim measures, known as Pre-Implementation Compliance Measures (PICMs), to protect habitat and achieve no net loss.

No net loss is a standard where any development action resulting in negative impacts to one or more key floodplain functions are then mitigated or avoided to offset said impacts. Communities must mitigate for each impact to the floodplain function. Floodplain functions include:

- Floodplain storage
- Water quality
- Vegetation

To make mitigating for these three functions measurable, FEMA has identified proxies for each of the functions that translate to potential development actions occurring in the floodplain. Mitigation ratios will be tied to these proxies, which include:

- Undeveloped Space (Floodplain Storage)
- Pervious Surface (Water Quality)
- Trees (Vegetation)

Floodplain Storage

About

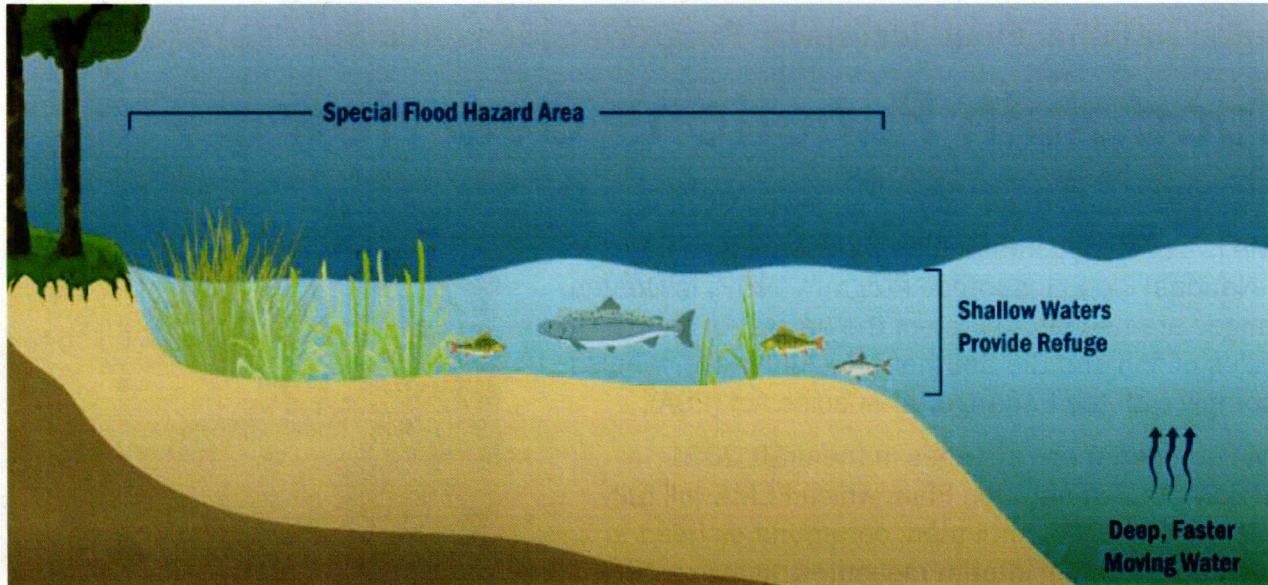
Floodplain storage is the three-dimensional space in which floodwaters can flow across and where fish can take refuge during the one-percent annual chance flood (i.e., 100-year flood, special flood hazard area). The proxy for this function, undeveloped space, will be measured from the existing ground to the Base Flood Elevation (BFE) that is undeveloped.

Why does it matter?

During flood events, fish find refuge in the Special Flood Hazard Area (SFHA) to move away from deeper, fast-moving water.



The National Flood Insurance Program serves to protect lives and property, while reducing costs to taxpayers due to flooding loss.



Potential development impacts

- Development such as buildings, storage tanks, roads or other structures reduces where floodwaters can spread and where fish have access to shelter and food.
- When fish cannot find slower moving water or areas where they can take refuge during a flood, they may be killed or swept downstream to areas that are not suitable for their stage of life.
- Development can alter streamflows and increase water velocity during flood events, endangering fish.

What is base flood elevation?

The base flood elevation, or BFE, is the expected height floodwaters could reach during the base flood. A “base flood” is a flood which has a one percent chance of being equaled or exceeded in any given year. Learn more about BFEs in your area by reviewing Flood Insurance Rate Maps, flood profiles in the Flood Insurance Study, or working with your local floodplain administrator.

How to comply with the NFIP-ESA Integration in Oregon

The following actions help to achieve no net loss standards:

- Avoid impacts by not reducing the amount of floodplain storage capacity between the ground and BFE in the SFHA.
- Minimize impacts by reducing the amount of new fill or structures at or below the BFE in the SFHA.
- Create new floodplain storage capacity to offset the loss caused by any development, such as removing fill and structures that occupy space.

Water Quality

About

Water quality is a measure of the condition of water and how suitable it is for a specific use or purpose.

Why does it matter?

- Serves an important role in the health of ESA-listed fish and essential fish habitat.
- Decreased water quality can harm fish and organisms living in the water that fish feed on.

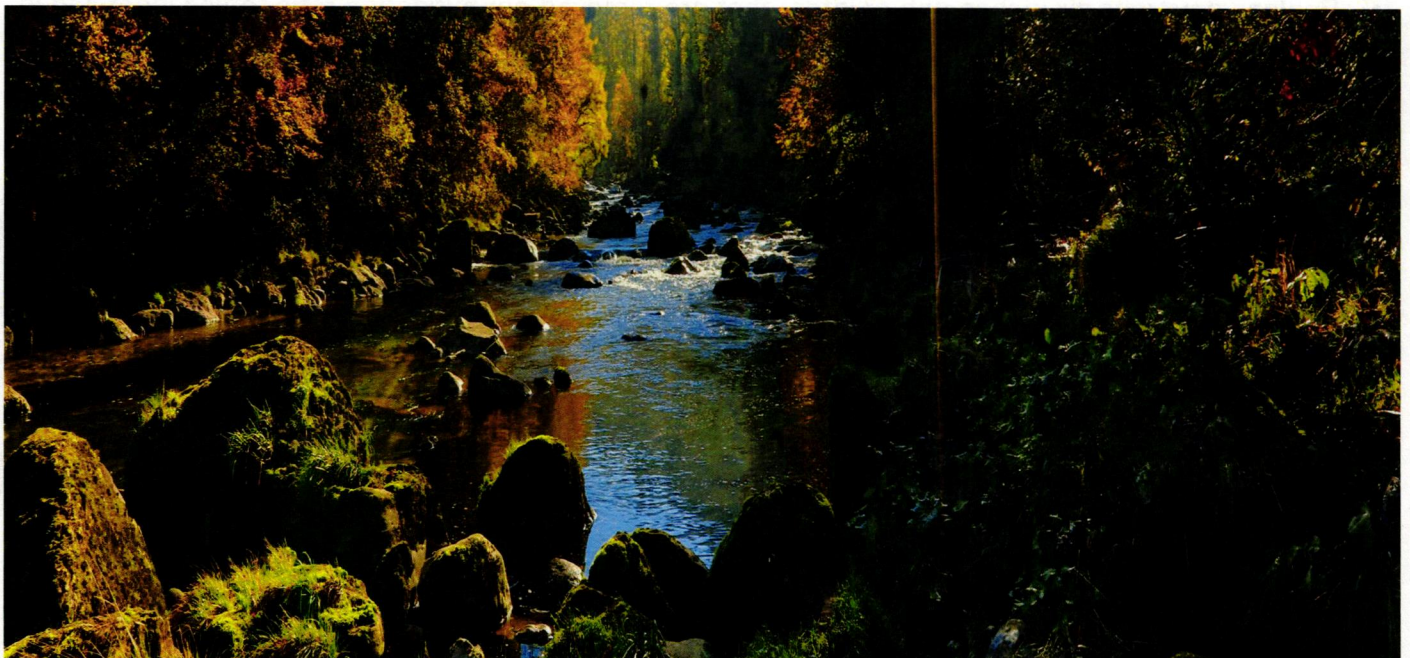
Potential development impacts

- Development can add new surfaces like concrete or asphalt, known as impervious surfaces, that prevent water from absorbing into the ground where soils and plants filter pollutants.
- Impervious surfaces can collect debris and pollutants. As a result, water flowing over these surfaces picks up debris and pollutants and carries them into surface waters or stormwater collection surfaces.
- Additionally, impervious surfaces can:
 - o Absorb heat, which can result in warmer water temperatures and negatively impact fish.
 - o Increase the volume or speed of water downstream if water is not absorbed into the ground.
 - o Result in erosion, increased flood damage, or reduced groundwater recharge due to stormwater runoff.

How to comply with the NFIP-ESA Integration in Oregon

The following actions help to achieve no net loss standards:

- Avoid impacts by minimizing the amount of impervious surface in the SFHA, such as expanding structures vertically instead of horizontally.
- Minimize impacts by reducing the amount of new impervious surface, like including planted areas to filter stormwater within parking lots.
- Remove an area of existing impervious surface or use low impact development or green infrastructure practices to filter stormwater to offset impacts. If those methods are not possible, providing stormwater retention or detention and treatment to minimize pollutants and avoid increases to peak volume or flow.



Vegetation

About

Vegetation, as it relates to the SFHA, includes both native and non-native plants growing in the floodplain and on the edge of a waterbody, such as along streams or riverbanks.

Why does it matter?

- Vegetation like grasses, shrubs, trees, and flowering plants serve as habitat for fish and the invertebrates fish eat, and reduces the risk of erosion by stabilizing soils.
- Trees, particularly those that are six inches in diameter at breast height (dbh) or larger, provide several important habitat benefits:
 - o Offering shade, which helps regulate water temperature.
 - o Providing woody debris, which contributes to habitat-forming processes for ESA-listed fish.
 - o Reducing the risk of erosion by stabilizing soils with their roots.

Potential development impacts

Development can lead to removing trees to accommodate construction equipment or clear the ground for fill, infrastructure, and structures.

How to comply with the NFIP-ESA Integration in Oregon

The following actions help to achieve no net loss standards:

- Avoid removing trees that are six inches dbh or larger.
- Reduce the number of trees six inches dbh or larger that are removed, such as locating a house to remove the fewest trees possible.
- Replace any trees six inches dbh or larger that are removed per mitigation ratio tables identified in the Model Ordinance and Habitat Assessment Guide.

FEMA Resources and Assistance

FEMA is offering several resources to assist communities in preparing for Oregon NFIP-ESA integration. Visit this website to learn more and review information about NFIP-ESA Integration: www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration

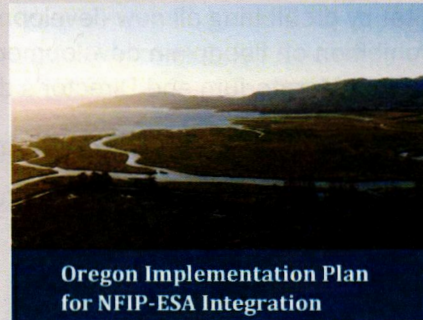
You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov

Oregon National Flood Insurance Program Endangered Species Act Integration Guidance for Communities

FEMA is assisting communities with coming changes to the National Flood Insurance Program (NFIP) in Oregon. Changes are needed to protect the habitat of several species of fish and the Southern Resident killer whales to comply with the Endangered Species Act (ESA).

FEMA outlined these changes in the draft NFIP-ESA Implementation Plan, which FEMA will fully implement in 2027. Until then, communities need to begin implementing interim measures, known as Pre-Implementation Compliance Measures (PICMs), to protect habitat and achieve no net loss. FEMA has developed these measures to address the 2016 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp).

These measures are intended to occur as the agency undertakes a National Environmental Policy Act (NEPA) review to assess the effects of FEMA's proposed NFIP-ESA integration efforts.



The 2021 Plan outlines the actions FEMA plans to take to ensure Oregon NFIP implementation is compliant with the ESA and the 2016 BiOp issued by NMFS.

What is "no net loss"?

Any development actions that result in a loss to one or more key floodplain functions must be mitigated or avoided.

The PICMs include the following three options:

Prohibit all new development

Model Ordinance

Permit-by-Permit



FEMA

Prohibit All New Development

What is involved?

With this option, communities could protect essential fish habitat by prohibiting all new development in the floodplain. A prohibition on floodplain development may take many forms, such as a Moratorium and Director's decisions.



How this complies with NFIP-ESA Integration in Oregon

Avoids adverse impacts to floodplain functions and essential fish habitat associated with floodplain development.

Key considerations

- Historically, communities applying this option have small areas of floodplain that have little development pressure, or the Special Flood Hazard Area is already in community ownership.
- Communities have the option of going through the process to prohibit development or move forward with approval to prohibit development from a planning director.
- FEMA advises communities to consult with their attorneys on how to legally enact this option.
- Exceptions to prohibition of all new development may include habitat restoration projects and activities identified as exempt from no net loss, but will have to be specified when implementing this PICM.

Model Ordinance

What is involved?

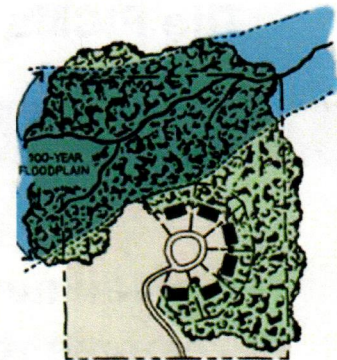
Communities could incorporate the ESA requirements into local floodplain ordinances.

How this complies with NFIP-ESA Integration in Oregon

Section 6.0 of the Model Ordinance provides ESA compliance through no net loss standards.

Key considerations

- FEMA used the current Oregon Model Ordinance as the basis for creating the PICM model ordinance. As a result, the language remains consistent with current guidance in other aspects of floodplain management.
- The [Model Floodplain Management Ordinance](#) provides guidance on federal and state standards; however, communities will need to review their existing ordinances and ensure that all the required components are included.
- Compliance with the ESA is built into the code of the Model Ordinance. Therefore, communities do not need to go through a separate or additional process to ensure ESA compliance.

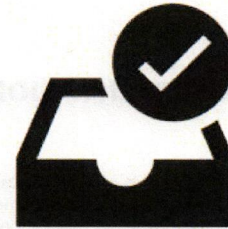


- The Model Ordinance provides new performance standards to address protection of ESA-listed fish and essential fish habitat, including mitigation ratios that will achieve no net loss.
- The Model Ordinance may be the most practical PICM option for communities that receive a large number of permit applications in the floodplain.

Permit-by-Permit

What is involved?

Requires permit applicants to develop a habitat assessment documenting that their proposed development in the Special Flood Hazard Area will achieve no net loss. Communities would review each floodplain development permit for potential impacts to ESA-listed fish and essential fish habitat.



How this complies with NFIP-ESA Integration in Oregon

Individual habitat assessments identify the existing floodplain functions at the development site in question and identify the mitigation measures taken to ensure ESA compliance.

Key considerations

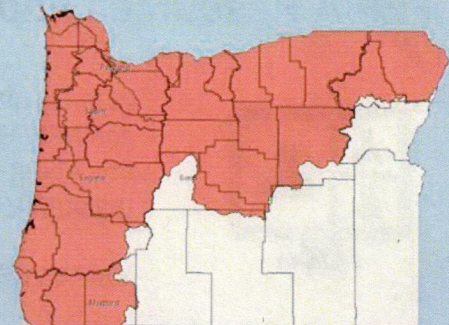
- Regional [Habitat Assessment Guidance](#) provides a methodology for conducting and reviewing the assessment.
- This guidance also includes:
 - Instructions for how to prepare a mitigation plan that will meet the mitigation ratios.
 - Suggestions on who should conduct these analyses.
 - Ideas for how communities can obtain reviews of these assessments if they do not have internal capacity.
- The Permit-by-Permit approach may be the most practical for communities that have some development in the floodplain or larger communities where floodplain regulations are dispersed across their code.

Affected Communities

The PICMs and the Oregon NFIP-ESA integration performance standards apply to communities that are:

- Located in the Oregon implementation area, as specified by the 2016 NMFS BiOp;
- Participating in the NFIP; and
- Have a mapped SFHA

For more information in determining if your community is in the plan area, please visit [National Flood Insurance Program - Endangered Species Act Integration in Oregon | FEMA.gov](#).



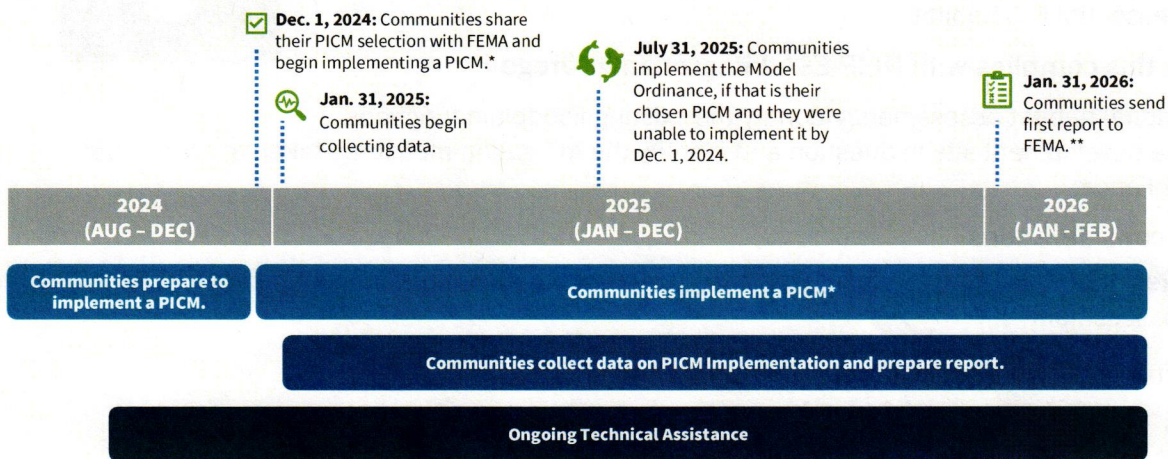
A total of 227 communities across 31 counties are affected in Oregon.

Next Steps

By Dec. 1, 2024 communities will share their PICM selection with FEMA and begin implementing a PICM. Key reporting and enforcement dates are highlighted in the timeline below.

Communities are required to implement the PICMs through the remainder of the Environmental Impact Statement (EIS) process. The Final Implementation Plan is anticipated by 2026 following the Record of Decision in the EIS process. Once the Record of Decision (ROD) for the EIS is issued, and thus marking the end of the EIS process, PICM will no longer be required. The ROD is expected to be issued in 2026.

PRE-IMPLEMENTATION COMPLIANCE MEASURES (PICM) IMPLEMENTATION TIMELINE

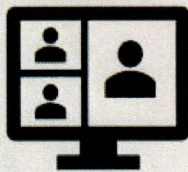


*If a community chooses the Model Ordinance approach and is unable to put it in place by Dec. 1, the community must implement the Permit-by-Permit approach or prohibit all new development in the Special Floodplain Hazard Area until they are able to implement the Model Ordinance approach, which must be implemented by July 31, 2025.

**FEMA will provide a reporting tool. If report is not provided, it will result in a community visit.



FEMA Resources and Assistance



FEMA is offering several resources to assist communities in preparing for Oregon NFIP-ESA integration. Visit this website to learn more and review information about NFIP-ESA Integration: <https://www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration>

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov





MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager

FROM: Chris Bailey, Public Works Director

DATE: November 11, 2024, for the November 18, 2024, City Council Work Session

SUBJECT: Airport Economic and Fiscal Analysis Request for Proposals

Action Requested:

None. Discussion only.

Discussion:

The City of Albany Strategic Plan has an objective under the Healthy Economy theme to “explore options for the future of the airport related to the best use for the Albany community.” The City owns and operates the Albany Municipal Airport, which serves as a general aviation airport. Funding for the operations, maintenance, and capital activities at the airport comes from leases of buildings and land, a portion of aviation fuel sales at the airport, and a portion of the city’s revenue from Transient Lodging Tax. Use and development at the airport has remained static for many years, and operating revenue has not kept pace with increases in expenditures. This, along with the direction from the strategic plan, has led staff to create a request for proposals to conduct an airport economic and fiscal analysis.

The overarching goal of this project is to create a report for the city council that quantifies and compares the economic and non-economic impacts of various alternative scenarios for the airport. The analysis will consider current conditions at the airport and identify financial needs to maintain its current use as the first alternative. Other alternatives that will be evaluated are enhancements of the current use; modification of the airport use to incorporate development options alongside aviation (such as restaurants, lodging, etc.) or redevelopment of the property for non-aviation use.

The result of this work will be a report that summarizes the financial and economic aspects of the alternatives and provides an analysis of the processes, barriers, benefits, and drawbacks of each alternative. The report will not make a recommendation to the council but will provide insight and analysis from consultants specializing in aviation uses and trends, as well as economic analysis of various scenarios that will help guide the council in providing direction for the future use of this asset. The request for proposals is expected to be issued within a month, and the final report is expected to be provided to the city in the spring 2025.

Budget Impact:

Adequate funding for this project is available in the Airport Capital program reserves.

CB:kc

- c: Ryan Beathe, P.E., CWRE, Civil Engineer III (via email)
- Robb Romeo, Transportation Manager (via email)
- Kristin Preston, Operations Manager (via email)

